

Extra Ordinary Part-V / 2013

Extra No.	Date	Department
Extra No.1	18-02-2013	Legislative & Parliamentary Affairs Department
Extra No.2	18-02-2013	Legislative & Parliamentary Affairs Department
Extra No.3	20-02-2013	Legislative & Parliamentary Affairs Department
Extra No.4	21-02-2013	Legislative & Parliamentary Affairs Department
Extra No.5	21-02-2013	Legislative & Parliamentary Affairs Department
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Extra No.20	15-03-2013	Legislative & Parliamentary Affairs Department
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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

V. L. LIV]

MONDAY, FEBRUARY 18, 2013/MAGHA 29, 1934

See the paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly

Rules :-

THE GUJARAT SHORT TITLES (AMENDMENT) AMENDING BILL, 2013.

GUJARAT BILL NO. 1 OF 2013.

A BILL

further to amend the Gujarat Short Titles (Amendment) Act, 2011.

It is hereby enacted in the Sixty-fourth Year of Republic of India as follows :-

1. This Act may be called the Gujarat Short Titles (Amendment) Short title. Amending Act, 2013.
2. In the Gujarat Short Titles (Amendment) Act, 2011, in the Schedule, after entry at Serial No. 38, the following entry shall be inserted, namely :-
Amendment of Schedule to Guj. 15 of 2011.

SCHEDULE

(See sections 3 and 4)

Sr. No.	Act No.	Year	Name of the Bombay Act
1.	2.	3.	4.
"38A.	Bom. XXIX	1950	The Bombay Public Trusts Act, 1950".

STATEMENT OF OBJECTS AND REASONS

The Gujarat State was formed on 1st May, 1960 as a result of bifurcation of bigger Bilingual State of Bombay into two linguistic States of Gujarat and Maharashtra by the Bombay Re-organization Act, 1960.

By section 3 of the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960, the Bombay Public Trusts Act, 1950 in force in the said State of Bombay was continued to be in force in the State of Gujarat or part thereof. Therefore, the Bombay Public Trusts Act, 1950 having short titled with prefix "Bombay" continues to be in force in the State of Gujarat or part thereof. It is, therefore, considered necessary to amend the short title of the said Act to substitute the prefix "Bombay" by prefix "Gujarat".

The Bill seeks to amend the Gujarat Short Titles (Amendment) Act, 2011 to achieve the aforesaid object.

Gandhinagar,
Dated the 16th February, 2013.

BHUPENDRASINH CHUDASAMA.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.
Dated the 18th February, 2013.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

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(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly

Rules :-

THE GUJARAT IRRIGATION AND DRAINAGE BILL, 2013.

GUJARAT BILL NO. 2 OF 2013.

A BILL

to provide for irrigation and drainage in the State of Gujarat.

WHEREAS it is necessary to make provisions for the construction relating to irrigation in the State of Gujarat and for the matters connected therewith and incidental thereto.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Irrigation and Drainage Act, 2013.

Short title, extent, commencement and application.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

(4) It shall apply to all the works constructed or maintained relating to irrigation by the State Government, State Government Institutions and Grant-in-Aid Institutions of the State and includes all services rendered thereof.

Definitions. 2. In this Act, unless the context otherwise requires, -

- (1) "Appellate Authority" means Canal-Officer of the rank of the Executive Engineer of the concerned project or part of the project;
- (2) "canal" includes -
 - (a) all canals, channels, water-courses, pipes and reservoirs constructed, maintained or controlled by the Government for the supply or storage of water;
 - (b) all works, embankments, structures and supply and escape-channels connected with such canals, channels, pipes or reservoirs; and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs;
 - (c) all field channels, drainage-works and flood embankments;
 - (d) river, stream, lake, natural collection of water or natural drainage-channels or any part thereof, to which the State Government may apply the provisions of section 4, or the water of which has been applied or used before the passing of this Act for the purpose of any existing canal;
 - (e) all lands belonging to the Government which are situated on a bank of any canal, and which have been appropriated under the orders of the Government for the purposes of such canal;
 - (f) all tubewells, artesian wells, borewells and dugwells, constructed by the Government and maintained or controlled by the Government;
 - (g) percolation tank or pond used for recharge of ground water;
- (3) "Canal-officer" means any person or an officer appointed as a canal-officer under section 3 for the purposes of the Act;
- (4) "drainage work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage, whether under the provisions of section 14 or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works-connected therewith, but does not include works for the removal of sewage from towns;
- (5) "Federation" means a federation of recognised associations;
- (6) "field channel" means any channel or pipe, constructed and maintained by the holder of a land either by himself or jointly with other holders of lands or constructed by the Government and maintained by such holder

or holders beyond a water-course and includes all subsidiary works connected with any such channel or pipe;

- (7) "flood-embankment" means any embankment constructed or maintained by the Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation or which may be declared by the Government to be maintained in connection with any such system, and includes all groins, spurs, dams and other protective works connected with such embankments;
- (8) "Government" means the State Government;
- (9) "land under irrigable command of a canal" means such lands as are irrigated or capable of being irrigated from the canal, being under its command and shall include such lands as are or shall be deemed to be irrigated within the meaning of section 34;
- (10) "Lift Irrigation Scheme" means the scheme in which the water is pumped from water body such as river, stream, drain, *nalla*, *kotar*, lake, pond, reservoir, *bandhara*, canal, tube-well, natural collection of water, etc. and supplied to the area situated at higher elevation for the purpose of irrigation or other purpose;
- (11) "outlet" means an opening in a canal through which water is delivered into a water-course, field-channel, pipeline or directly to any land;
- (12) "owner" includes every person having a joint interest in the ownership in land, building or such other things; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership;
- (13) "prescribed" means prescribed by rules made under section 47;
- (14) "Water Conservation Structure" means any structure permanent or otherwise constructed or maintained for the purpose of impounding or diverting water of any river, stream, lake or any natural collection of water and includes any dam, weirs, *bandhara*, tidal regulator, checkdam, sluices, head walls, groins, spreading channels or any other works constructed for water conservation;
- (15) "water-course" means a channel constructed and maintained at the cost of the Government to supply water from an outlet;
- (16) "Water Users' Association (WUA)" means an Association as defined by clause (1) of section 2 of the Gujarat Water Users' Participatory Irrigation Management Act, 2007 (in short "PIM Act, 2007");

Appointment of 3. For carrying out the purposes of this Act, the State Government may
Canal-Officers. by notification in the *Official Gazette* -

- (a) appoint such officers not below the rank of Overseer or Additional Assistant Engineer as the canal-officer and assign to them such powers and such duties under this Act, as the State Government may deem fit and also specify the area of jurisdiction;
- (b) authorise or empower the water users' association to appoint the office bearer of the Association to exercise such powers and perform such duties of the canal-officer, as the State Government may deem fit and also specify the area of jurisdiction.

CHAPTER II

CONSTRUCTION AND MAINTENANCE OF CANAL SYSTEMS

(A) *Application of Water for Purposes of Canals.*

When water- 4. Whenever it appears expedient or necessary to the Government that the
supply to be water of any river or stream flowing in a natural channel, or of any lake or any
applied to canal. other natural collection of still water, should be applied or used by the State Government for the purposes of any existing or projected canal, the State Government may, by notification in the *Official Gazette*, declare that the said water shall be so applied or used after such date as may be specified in the said notification, not being earlier than three months from the date thereof.

(B) *Power of Entry on Land, etc.*

Power of canal 5. At any time after the date specified under section 4, any canal-officer
officer for duly empowered in this behalf may enter on any land, remove any obstruction,
applying water- close any channel and do any other thing necessary for such application or use
supply. of the said water and for such purposes may take with him, or depute or employ, such employees and other persons as he deems fit.

Entry for inquiry. 6. Whenever it is expedient or considered necessary to make any inquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal-officer duly empowered, in this behalf, and any person acting under the general or special order of any such canal-officer may,-

- (a) enter upon such land as he may think necessary for the purpose, and
- (b) exercise all powers and do all things in respect of such land as if the State Government had issued a notification under the provisions of 1 of 1894.

section 4 of the Land Acquisition Act, 1894 to the effect that such land in that locality is likely to be needed for the public purpose, and

- (c) set up and maintain water-gauges and do all other things necessary for the prosecution of such inquiry and examination.

7. Any canal-officer or any person acting under the general or special order of any such canal-officer, may enter upon any land, building or water course, in respect of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied. **Power to inspect and regulate water-supply.**

8. In case of any accident being apprehended or happening to a canal, any canal-officer and person acting under the general or special order of any such canal-officer, may enter upon any land adjacent to such canal, and may take away trees and other materials, and execute all works, which may be necessary for the purpose of preventing such accident or repairing any damage done. **Power to enter for repairs and to prevent accidents.**

9. When a canal-officer or other person proposes, under section 6, 7 or 8, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall give prior notice to the occupier of such building, court or garden, as the urgency of the case may allow. **Notice to occupier of building, etc.**

(C) *Canal Crossings.*

10. (1) The crossing canals shall be provided at such places as the Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent land, and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal. **Means of crossing canals to be provided and obstruction to drainage to be avoided.**

(2) The Government may approve the crossing of canal systems by all types of utility lines, if it deems fit, after obtaining necessary deposits, rent, maintenance and repair charges and other applicable charges.

(3) The Government may approve the crossing of natural drain, diversion of natural drain by earthen bund or by any means if it deems fit.

(D) *Removal of Obstructions to Drainage.*

11. (1) Whenever it appears to the State Government that injury to the public health, or public convenience, or to any canal or to any such land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, it may, by notification in the *Official Gazette*, prohibit, within the limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction. **State Government may prohibit formation of obstructions of rivers, etc., within certain limits.**

(2) On publication of the notification under sub-section (1), the said river, stream or natural drainage channel, as is comprised within such limits, shall be held to be a drainage work as defined by clause (4) of section 2.

Canal-officer may direct any person to remove obstruction. 12. Any canal-officer may, after publication of the notification under sub-section (1) of section 11, by an order, direct to any person causing or having control over any such obstruction to remove or modify the same within such time as may be specified in such order.

Canal-officer may cause obstruction to be removed. 13. If within the time specified under section 12 such person does not comply with the order, the canal-officer may cause the obstruction to be removed or modified at the cost of such person; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land-revenue.

(E) *Construction of Drainage Works.*

When drainage works are necessary, State Government may order scheme to be carried out. 14. (1) Whenever it appears to the State Government that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the State Government may cause a scheme for such work to be drawn up and carried into execution.

(2) The person authorised by the State Government may authorise any person to draw up and execute the scheme referred to under sub-section (1) and thereupon such person may exercise in connection therewith the powers conferred on canal-officer under sections 6, 7 and 8 and shall be liable to the obligations imposed upon canal-officer under sections 9 and 22.

CHAPTER III

CONSTRUCTION AND MAINTENANCE OF FIELD CHANNELS

Construction and maintenance of Field Channels. 15. (1) Where there does not exist field channel in any service area in which lands are capable of being irrigated from a canal, the State Government may construct the field channel in the public interest at the cost of the State Government, which is likely to be needed for construction of proposed field channel.

(2) The field channel constructed by the State Government under sub-section (1) shall be maintained in accordance with the rules as may be prescribed.

CHAPTER IV

SUPPLY OF WATER

16. (1) Every person desiring to have a supply of water from a canal shall submit a written application to that effect to the canal-officer, in such form **Application for supply of water.** alongwith such fees as may be prescribed.

(2) The provisions of sub-section (1) shall not apply to the projects or part of the project where the minor canal service area is declared and implemented **Guj. 18 of 2007.** under section 3 of the PIM Act, 2007.

(3) On receipt of an application made under sub-section (1), the canal-officer may grant permission for water to be taken subject to such conditions and restrictions, as to the limitation, control and measurement of the supply to impose in relation to the use of water for any particular purpose as may be prescribed.

17. The supply of water to any field-channel or to any person who is entitled to such supply shall not be stopped except – **Power to stop water-supply.**

- (a) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by canal-officer;
- (b) whenever and so long as may field-channel by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom;
- (c) whenever and so long as it is necessary to do so in order to supply in rotation, the legitimate demands of other persons entitled to water;
- (d) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;
- (e) within the periods fixed from time to time by a canal-officer of which due notice shall be given;
- (f) whenever and so long as it is necessary to stop such supply pending a change in the source thereof by a canal-officer;
- (g) in accordance with the condition, if any, providing for stoppage of water supply, subject to which permission for water supply to be taken may have been given.

18. When canal-water is supplied for the irrigation of one or more crops only, the permission to use such water shall continue until such crop or crops come to maturity, and shall be valid only for such crop or crops. **Duration of water supply.**

19. (1) Every agreement for the supply of canal-water to any land, building or other immovable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building or other immovable property takes place. **Agreement for supply of water transferable with property in respect of which water supply**

(2) No person entitled to use of any work or land appertaining to any canal and except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell or sub-let or otherwise transfer, his right to such use without the permission of a canal-officer.

CHAPTER V

AWARD OF COMPENSATION

(A) Compensation when claimable.

Compensation 20. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by or under this Act, which is capable of being ascertained and estimated at the time of awarding such compensation:

Provided that no compensation shall be awarded in respect of any damage arising from -

- (a) deterioration of climate, or
- (b) stoppage of navigation, or the means of rafting timber or of watering cattle, or
- (c) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section 4, if no use has been made of such supply within the five years prior to the date of issue of the notification under section 4, or
- (d) failure or stoppage of the water in a canal, when such failure or stoppage is due to-
 - (i) any cause beyond the control of the State Government,
 - (ii) the execution of any repairs, alterations or additions to the canal, or
 - (iii) any measures considered necessary by any canal-officer for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes specified in clause (d) shall be entitled to such remission of the water-rate payable by him as may be authorised by the Government.

Limitation of 21. No claim for compensation under this Act shall be entertained after the claims: expiration of twelve months from the time when the damage complained has commenced, unless the Appellate Authority is satisfied that the claimant had sufficient cause for not making the claim within such period.

(B) Summary Decision.

Compensation for 22. In every case of entry upon any land or building under section 5, 6, 7 damage caused by or 8, the canal-officer or person making the entry shall ascertain and record the entry on land, etc. extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property. The canal officer shall within one month from the date of such entry tender the compensation to the land holder or owner of the property damaged. If such tender is not accepted,

the canal-officer shall forthwith refer the matter to the Appellate Authority for the purpose of ascertaining the amount of compensation and deciding the same.

23. If the supply of water to any land irrigated from a canal is interrupted otherwise than in the manner described in clause (d) of section 20, the holder of such land may prefer an appeal for compensation to the Appellate Authority for any loss arising from such interruption, and the Appellate Authority, after consulting the canal-officer shall award to the applicant reasonable compensation for such loss.

Compensation on account of interruption of water-supply.

24. The decision of the Appellate Authority under section 22 or 23 as to the amount of compensation to be awarded, or, if any rule framed under section 47, the decision of the appellate authority in the matter prescribed under section 47 shall be conclusive and final.

Decision as to amount of compensation conclusive.

(C) *Formal Adjudication.*

25. As soon as practicable after the issue of a notification under section 4, the Collector shall cause a public notice to be given at convenient places, stating that the Government intends to apply or use the water as aforesaid, and that claims for compensation may be made before him. A copy of sections 20 and 21 shall be annexed to every such notice.

Notice as to claim for compensation in certain cases.

26. All claims for compensation under this Act, other than the claims provided for in sections 22 and 23, shall be made to the Collector of the district in which such claim arises.

Claim to be referred to Collector.

27. (1) The Collector shall inquire into every such claim and determine the amount of compensation, if any, which may, in his opinion be given to the claimant, and shall make an award.

Provisions of Land Acquisition Act, 1894 to apply in inquiry and award.

I of 1894. (2) Every award made under sub-section (1) shall be in the form of award declared under section 26 of the Land Acquisition Act, 1894, and the provisions of the said Act shall so far as may be, apply to the inquiry and the making of an award under sub-section (1).

28. In determining the amount of compensation under section 27, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed. Where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property.

Diminution in market value to be considered in fixing compensation.

29. (1) All sums of money payable for compensation awarded under section 27 shall be due three months after the claim for such compensation was made.

Compensation when due and interest thereon.

(2) Simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

CHAPTER VI

WATER RATES

(A) *Supply Rates.*

Rates for
supply of
canal-water.

30. (1) The State Government may determine the rates leviable for canal-water supplied for purposes of irrigation, or for other purposes.

(2) In case the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue or a fixed amount of revenue has hitherto been paid to the State Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

(3) The rates shall be payable by the person on whose application the water supply was granted, or by any person who uses the water so supplied.

(B) *Water rates for unauthorised used and waste of water.*

Liability when
person using
water
unauthorisedly
cannot be
identified.

31. If water supplied through a field-channel be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified -

- (i) the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom, or
- (ii) if no land has derived benefit therefrom, the person, or all the persons chargeable in respect of the water supplied through such field-channel,

shall be liable, or jointly liable, as the case may be, for the charges which shall be payable for such use as may be prescribed.

Liability when
water runs to
waste.

32. (1) If water supplied through a field-channel be suffered to run to waste, and if, after inquiry, the person through whose act or neglect such water was suffered to run waste cannot be discovered, the person or the persons in-charge of the water supplied through a field-channel shall be liable, or jointly liable, as the case may be, for payment of such charges as may be prescribed which shall be made in respect of the water so wasted.

(2) All questions arising under sections 31 and 32 shall, subject to the provisions of section 43, be decided by the respective canal-officer.

Charges
recoverable in
addition to
penalties.

33. All charges for the unauthorised use or for waste of water may be recovered, as water-rates, in addition to any penalty as decided by the Government on account of such use or waste.

(C) Water rates for percolation and leakage.

34. If it appears to a canal-officer-

(i) that any cultivated land within two hundred meters of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation, or **Land deriving benefit from percolation liable to payment of water rate.**

(ii) that any cultivated land, wherever situate, derives by a surface-flow or by means of a well-sunk within two hundred meters of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

Explanation.- For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

35. If it appears to a canal-officer to enforce the provisions of this section that any natural stream, artificial drain or well sunk within two hundred meters of any canal is deriving percolation water from such canal, and the water from such stream, drain or well is used for the purposes other than those of irrigation, he may charge for use of such water, a water rate not exceeding that as would ordinarily have been charged if the supply had been made from the canal for such purposes. **Levy of water rate for use of percolation water for non-irrigation purposes.**

(D) Recovery of water rates and other rates in arrears.

36. (1) Every water-rate leviable or charged under this Act shall be payable in such installments and on such dates and to such officers and in such manner as may be prescribed; and if the person who is liable to pay such installments, makes default in such payment on the date when it becomes due, he shall be liable to pay interest at such rate and within such period as may be prescribed. **Payment and recovery of water rates and other dues.**

(2) Any such rate of the installment specified in sub-section (1) or the interest which is not paid on the date when it becomes due shall be deemed to be an arrear of land revenue due on account of the land for the use of which canal-water was supplied or which was benefited by percolation or leakage from any canal and shall be recoverable as such arrear by any of the methods specified in section 150 of the Gujarat Land Revenue Code, 1879, including the forfeiture of the said land.

Bom. V of 1879.

(3) Any rent payable to the owner of a field-channel by a person authorised to use such field-channel may be paid in such installments and on such dates as the canal-officer shall direct and no more of such rent shall at any time be payable to the owner thereof than it is actually recovered from the person liable to pay.

(4) (a) Any other sum due to the State Government or to a canal-officer under the provisions of this Act whether on behalf of the State Government or any other person under this Act which is not paid when demanded shall, and

(b) any rent or installment thereof payable to the owner of a field-channel, which is not paid when it becomes due may, on behalf of the owner,

be recoverable as an arrear of land revenue in accordance with the provisions of the Gujarat Land Revenue Code, 1879.

Bom. V of 1879.

CHAPTER VII

OFFENCES AND PENALTIES

Penalty for 37.
damaging
canal, etc.

Whoever voluntarily and without proper authority-

- (i) damages, alters, enlarges or obstructs any canal;
- (ii) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal, or by any means raises or lowers the level of the water in any canal;
- (iii) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (iv) destroys, defaces or moves any land or level mark or water gauge fixed by the authority of a public servant;
- (v) destroys, tampers with, or removes any apparatus or part of any apparatus, for controlling, regulating or measuring the flow of water in any canal;
- (vi) passes or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to the rules made under this Act, after he has been desired to desist therefrom;
- (vii) causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers or causes or knowingly and wilfully permits cattle to be tethered, upon any such canal or embankment, or roots up any grass or other vegetation growing on any such canal or embankment, or removes, cuts or in any way injures, or causes to be removed, cut or otherwise injures any tree, bush, grass or hedge intended for the protection of such canal or embankment;
- (viii) neglects, without reasonable cause to assist or to continue to assist in the execution of any repair, clearance or work, when lawfully bound so to do;
- (ix) violates any rule made under this Act for breach thereof;

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shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, 1860 on conviction before a Magistrate, be punished for each of such offences with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

38. Whoever without proper authority-

Penalty for endangering stability of canal, etc.

- (i) pierces or cuts through or attempts to pierce or cut through or otherwise damage, destroy or endanger the stability of any canal;
- (ii) opens, shuts or obstructs or attempts to open, shuts or obstructs any sluice in any canal;
- (iii) makes any dam or obstruction for the purpose of diverting or opposing the current of a river or canal on the bank whereof there is a flood embankment or refuses or neglects to remove any such dam or obstruction when lawfully required so to do,

XLV of 1860.

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, 1860 on conviction before a Magistrate of the First Class, be punished for each of such offences with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

39. Whenever any person is convicted under section 37 or 38, the Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held, within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, the canal-officer duly empowered in this behalf may remove such obstruction or repair such damage and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector, as an arrear of land revenue. **Obstruction to be removed and damage repaired.**

40. Any person in-charge of or employed upon any canal may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forth with before a magistrate or to the nearest police-station, to be dealt with according to law, any person who within his view, **Person employed on canal may take offenders into custody.**

- (i) wilfully damages, obstructs or fouls any canal, or
- (ii) without proper authority interferes with the supply or flow of water in or from any canal or in any river or stream so as to endanger, damage, make dangerous or render less useful any canal.

41. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: **Saving of prosecutions under other laws.**

Provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant. 42. (1) Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a penalty of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who furnished information leading to the detection of such offence or to the conviction of the offender.

(2) If such fine is awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has lapsed, or if an appeal be presented till the appeal is decided.

CHAPTER VIII

APPEAL

Appeal against order of canal-officer. 43. (1) Any person aggrieved by the order of the canal-officer may make an appeal to the Appellate Authority to whom the canal-officer passing the order is subordinate.

(2) No appeal shall be maintainable after the expiry of thirty days from the date on which the order appealed against was communicated to the appellant:

Provided that such appeal may be entertained by the Appellate Authority after the said stipulated period if it is satisfied that there are sufficient reasons for condoning such delay in preferring the appeal.

(3) An appeal shall be made in such manner, to such authority and shall be accompanied with such fees as may be prescribed.

Power of civil court for certain purposes.

44. (1) The Appellate Authority under this Act shall have the same powers for the purposes of making inquiries under this Act as are vested in the Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

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- (a) enforcing the attendance of any person as a witness and examining him on an oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses; and
- (d) proof of facts by affidavits.

(2) All inquiries and appeals under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860.

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1860.

Service of notice. 45. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the

outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

CHAPTER IX

MISCELLANEOUS

46. No suit, prosecution or other legal proceedings shall lie against the State Government or any officer or employee of the Government for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule, notification made or issued thereunder. **Protection of action taken in good faith.**

47. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. **Power to make rules.**

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the proceedings of any officer who under any provision of this Act, is required or empowered to take action in any matter;
- (b) the matters in which, the officers to whom and the conditions subject to which, the orders and decisions given under any provision of this Act and not expressly provided for as regards appeal, shall be appealable;
- (c) the manner of construction and maintenance of a field-channel under section 15;
- (d) the amount of any charge to be made under this Act;
- (e) form of application, fees to be paid with application, conditions for grant of permission for supply of water under section 16;
- (f) matters under section 24, in which the decision of Appellate Authority shall be final;
- (g) charges payable for unauthorised use of water under section 31;
- (h) charges payable for wastage of water under section 32;
- (i) manner and timelimit of payment of instalments, the authority to whom payment made; rates of interest payable and the period within which interest shall be paid under section 36;
- (j) the manner of appeal, fees and the authority to whom appeal shall lie under section 43;
- (k) any other matter which is or may be provided by rules under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

- (4) Any rescission or modification made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

CHAPTER X

SPECIAL PROVISIONS REGULATING CONSTRUCTION AND MAINTENANCE OF TUBEWELLS, ARTESIAN WELLS AND BOREWELLS

Definitions. 48. In this Chapter, unless the context otherwise requires,-

- (a) "artesian well" means a well which taps artesian or piestic water having piezometric level above the ground;
- (b) "borewell" means a well drilled in hard rock areas where the bore can stand on its own and where lining by pipes is not necessary; and includes a dug-cum-bore well;
- (c) "ground water" means water under the surface of the earth regardless of the geological structure in which it is stationary or moving and includes all ground water reservoirs;
- (d) "prescribed" means prescribed by rules made under section 57;
- (e) "tubewell" means a deep bore drilled into the ground for the purpose of drawing water through one or series of permeable layers of water bearing strata.

Areas to which this Chapter applies. 49. (1) The State Government may, by notification in the *Official Gazette*, apply the provisions of this Chapter to such area as may be specified in the notification.

(2) The State Government may, by a like notification, direct that the provisions of this Chapter shall cease to apply to such area on and from such date as may be specified in the notification; and with effect on and from that date, the said provisions shall cease to apply to such area, except as respects things done or omitted to be done before such cesser.

Regulation of construction and maintenance of tubewells, etc. 50. Notwithstanding anything contained in the Gujarat Land Revenue Code, 1879 or in any other law for the time being in force, no holder of any land assessed or held for the purpose of agriculture within the meaning of the said Code (hereinafter in this Chapter referred to as "the agricultural land") shall construct, or cause or permit to be constructed, any tubewell, artesian well or borewell, exceeding the depth, as may be prescribed for extracting ground water except under and in accordance with the terms and conditions (including conditions relating to the maintenance of such well) of a licence issued under section 51 and the rules made under section 57. **Bom. V of 1879.**

Grant of licence. 51. (1) Where a holder of any agricultural land desires to construct therein any tubewell, artesian well or borewell, exceeding the depth as prescribed for extracting ground water, he shall make an application to the canal-officer having jurisdiction for the grant of a licence.

(2) The application under sub-section (1) shall be in such form, shall contain such particulars and shall be accompanied with such fees as may be prescribed.

(3) On receipt of an application made under sub-section (1), the canal-officer may, after making such inquiry as he thinks fit and having regard to the availability and quality of ground water and the density of wells in the area in which the tubewell, artesian well or borewell, as the case may be, is proposed to be constructed and such other relevant factors as the circumstances of the case may require, by order, grant or refuse to grant the licence applied for:

Provided that before refusing to grant the licence, the applicant shall be given a reasonable opportunity of being heard in the matter:

Provided further that where the canal-officer to whom an application has been made under sub-section (1) fails to inform the applicant of his decision on the application within a period of three months from the date of receipt of the application, the licence shall be deemed to have been granted to the applicant.

(4) The licence granted or deemed to have been granted under sub-section (3) shall be in such form as may be prescribed and shall be subject to such terms and conditions as may be specified therein, including conditions relating to the maintenance of the well.

52. Where any tubewell, artesian well or borewell is in existence in an agricultural land at the commencement of this Act and the depth of such well is in excess of depth as prescribed, then the holder of the agricultural land shall, within three months from such commencement, furnish information in respect of the well to the canal-officer having jurisdiction, in such form as may be prescribed and on receipt of the information, the canal-officer shall if he is satisfied that the well was in existence at such commencement, grant to the holder of land a certificate in the prescribed form to the effect that the said well was in existence at such commencement. **Regulation of existing tube wells, etc.**

53. If the canal-officer is satisfied either on a reference made to him in this behalf or otherwise that- **Cancellation of licence.**

- (a) any licence granted under section 51 has been obtained by fraud or misrepresentation as to an essential fact, or
- (b) the holder of a licence has, without reasonable cause, failed to comply with the terms and conditions subject to which the licence has been granted, or has contravened any of the provisions of this Chapter or the rules made under section 57,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Chapter, the canal-officer may after giving the holder of the licence an opportunity of showing cause, by order, cancel the licence.

Appeal. 54. (1) Any person aggrieved by an order of the canal-officer made under section 51, 53 or 55, may prefer an appeal to the Appellate Authority against such order within thirty days from the date on which the order was communicated and the decision of the Appellate Authority on such appeal shall be final:

Provided that such appeal may be entertained by the Appellate Authority after the said stipulated period if it is satisfied that there are sufficient reasons for condoning such delay in preferring the appeal.

(2) Every appeal preferred under sub-section (1) shall be made in such manner, to such authority and shall accompanied with such fees as may be prescribed.

Regulation of 55. (1) No holder of agricultural land in which there is a tubewell, artesian well or borewell, exceeding the depth as prescribed shall allow any water from such well to be used for a purpose other than for the purpose of agricultural or of drinking or to be wasted either through leaky casing, pipe fittings, valves or pumps either above or below the surface or on account of any other reason whatsoever:

Provided that the canal-officer may, subject to any general or special order of the State Government, by order allow such holder to use the water from such well for any purpose other than for the purpose of agriculture or of drinking.

(2) If in the opinion of the canal-officer water from any tubewell, artesian well or borewell exceeding the depth, as prescribed, is used for a purpose other than for the purpose of agriculture or of drinking, without the order of the canal-officer, or is wasted, he may after giving the holder of the agricultural land in which such well is situated, a notice of not less than thirty days, by order required him to close or seal off the well at his expense and in such manner as the canal-officer may specify in such order and the holder of agricultural land shall comply with such order.

(3) Where any holder of agricultural land fails to comply with any order made under sub-section (2), the canal-officer may after giving the holder of the agricultural land due notice in that behalf, enter upon the land and close or seal off the well and the cost incurred therefore shall recoverable from the holder of the land as an arrear of land revenue.

Penalty. 56. If any person contravenes the provisions of section 50 or 52, or the rules made under section 57 in respect of the construction or maintenance of tubewells or any of the terms and conditions specified in a licence granted under section 51 he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extent to ten thousand rupees or with both.

57.(1) The State Government may, by notification in the *Official Gazette*, **Power to make rules.**
make rules for carrying out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) the form of application for grant of licence under sub-section (2) of section 51, the particulars to be contained in such application and the fees to be accompanied with such application;
- (b) the form of licence and terms and conditions for grant of licence under section 51;
- (c) the form for furnishing information by the holder of an agricultural land and the form of certificate under section 52;
- (d) the manner of preferring appeal and the fees payable with such appeal under section 54;
- (e) the depth of the tubewells, artesian wells or borewells which shall not exceed for extracking ground water, and the rules for construction thereof under section 50; and also the terms and conditions for issuance of licence therefore;
- (f) any other matters which is required to be, or may be, prescribed under this chapter.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rules to be made under this section.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

58. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid as soon as may be after it is made, before the State Legislature.

Power of State Government to give directions.

59. The State Government may from time to time, issue such directions not inconsistent with the provisions of this Act, to any canal-officer or other officers, as it may deem fit, for the purpose of carrying out the provisions of this Act, or the rules or orders made thereunder and the officers shall bound by such directions.

Repeal and savings.

60. (1) The Gujarat Irrigation Act, 1879, in its application to the State of Gujarat is hereby repealed: **Bom. VII of 1879.**

Provided that such repeal shall not affect-

- (a) the previous operation of the said Acts so repealed, or anything duly done or suffered thereunder;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Acts so repealed;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act has not been passed:

Provided further that, subject to the preceding proviso, anything done or any action taken (including any notification, order, notice, summon, warrant and proclamation issued, declarations and rules made, water for purposes of canals applied, permissions to take water given, agreement for supply of water made, compensations awarded references to the Collector made, summary decisions taken, water rates and betterment charges levied, list of persons liable to be required to work prepared, irrigation record of rights revised) under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken by or under the corresponding provisions of this Act and shall continue to be in force until superseded by anything done or any action taken under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

At present, irrigation through surface water and ground water is regulated by the Gujarat Irrigation Act, 1879. Consistent with the principles and guidelines for equitable and efficient irrigation through adoption of rotational water distribution system and supply of water, levy of water rates on volumetric basis and participation of farmers in irrigation management, it is considered necessary to enact the fresh legislation replacing the Gujarat Irrigation Act, 1879.

The main object of the Bill is to increase the performance efficiency of irrigation schemes in the State with a view to bringing about equitable distribution of water for irrigation with the help of farmers and maximizing the benefits from irrigation through canals in terms of increased agricultural production without additional cost. It is proposed to achieve the aforesaid objectives by providing for realisation of optimum use of water for irrigation; supplying it on the basis of volume and charging for the same on volumetric basis and by participation of farmers in the water management by requiring them to form associations for obtaining water for irrigation on volumetric basis.

The provisions of this Bill are also made applicable to the irrigation works undertaken by the State Government, State Government Institutions and Grant-in-aid Institutions of the State.

The following notes on *clauses* explain the important provisions of the Bill: —

Clause 1.- This clause provides for short title, extent, commencement and application.

Clause 2.- This clause defines certain terms used in the Bill.

Clause-3.- This clause provides for the appointment of certain officers as the canal-officers.

Clause 4.- This clause provides that whenever it appears expedient or necessary to the State Government, it may by notification in the *Official Gazette*, declare for application or use of water of any river or stream flowing in a natural channel, or of any lake or any other natural collection of still water, for the purposes of existing or projected canals.

Clause 5.- This clause provides for the powers of canal-officer to enter on any land, remove any obstruction, close any channel and do any other things necessary for the purpose of application or use of water.

Clause 6.- This clause provides that the canal officer or any person acting under the general or special order of the canal-officer shall have power to enter upon any land for the purpose of any inquiry or examination in connection with a projected canal, or for the

maintenance of an existing canal and the canal-officer shall exercise all the powers and do all the things in respect of such land as if the State Government has issued the notification under section 4 of the Land Acquisition Act, 1894.

Clauses 7 and 8.- These clauses provide for the power of canal-officer or any person acting under the general or special order of the canal-officer, to enter upon any land, building or water course in respect of which water-rate is chargeable, inspect and regulate the use of water supply, measuring the irrigated land; and to enter upon any land adjacent to a canal, and do all works to prevent accidents and for repairs of canals.

Clause-9.- This clause relates to the prior notice to occupier of any building, enclosed court or garden attached to a dwelling-house, etc. not supplied with water from canal and not adjacent to a flood-embankment, before entering any building, etc. for the purposes of clauses 6, 7 or 8.

Clause 10.- This clause provides for the crossing canals to be provided at such places for the reasonable convenience of the inhabitants of the adjacent land, and construction of suitable bridges, culverts or other works to prevent the drainage of the adjacent land being obstructed by any canal. It also provides for levy of deposits, rent, repairs charges and other applicable charges.

Clauses 11.- These clause provide for the for the powers of the State Government to prohibit, by notification in the *official gazette*, the formation of obstruction, whenever it appears to it that injury to public health or inconvenience has arisen or likely to arise from obstruction from any river, stream or natural drainage-course, etc. and define the limits in such notification.

Clauses 12 and 13.- These clauses provide for the powers of the canal officer to direct the person causing or having control over obstruction to remove or modify the obstruction within the time limit specified in the order for removal or modification of obstruction ;and in case of failure to remove such obstruction or modification, the canal officer shall get the such obstruction removed or modified at the cost of such person and recover of expenses for removal of such obstruction from such person.

Clause 14.- This clause provides for the powers of the State Government to direct for preparation of scheme and for its execution whenever it is required or necessary for the public health, improvement of the proper cultivation, irrigation of any land, protection from floods, other accumulations of water, or from erosion by a river for drainage works.

Clause 15.- This clause provides for construction and maintenance of Field-Channels at Government cost, where there does not exist field channel in any service area.

Clauses 16 to 19.- These clauses provide for the supply of water from a canal, stoppage of water supply in certain circumstances as mentioned therein, duration of water supply; and the agreement for supply of canal-water to any land, building or immovable property shall be transferable whenever a transfer of such land, building or other immovable property takes place.

Clauses 20 and 21.- These clauses provide for compensation in cases of ascertainable substantial damages and the incidents in which compensation shall not be awarded and also the period in which such claims for compensation shall be entertained.

Clause 22.- This clause provides for compensation for damage caused by the entry upon any land or building, or in the execution of any work, to any crop, tree, building or other property and the payment of compensation to the owner or land holder by the canal-officer within one month.

Clause 23.- This clause provides for preferring an appeal to the appellate authority for compensation for any loss arising from interruption of water supply otherwise than in the manner described in clause (d) of section 20.

Clauses 25 and 26.- These clauses provide for issuance of public notice by the Collector stating the Government intention to apply or use the water and also claims for compensation under sections 20 and 21; and also provide that for all claims for compensation except under sections 22 and 23 shall be made to the Collector.

Clauses 27 to 29.- These clauses provide that the provisions of the Land Acquisition Act, 1894 shall so far as may be, apply to the inquiry and the making of an award. In determining the amount of compensation, the diminution in the market-value, shall be taken in to consideration. Simple interest at the rate of six per cent. per shall be paid on any such sum remaining unpaid after three months.

Clauses 30 to 33.- These clauses provide that the State Government shall determine the rates for supply of canal-water and also fixing the liability of person using water unauthorisedly for payment of charges for unauthorised use of water; and liability of any person to run to waste for water supply suffered due to act of the person or neglect such water.

Clause 34.-This clause provides that any cultivated land within two hundred meters of any canal receives, by percolation or leakage from such canal, and any cultivated land, derives by a surface-flow or by means of a well-sunk within two hundred meters of any canal, shall be liable to pay water-rate at the ordinary rate charged for similarly cultivated land.

Clause 35.-This clause provides that any natural stream, artificial drain or well sunk within two hundred meters of any canal deriving percolation water from such canal, which is used for the purposes other than irrigation, shall be liable to pay water-rate at the ordinary rate.

Clause 36.- This clause provides for manner of payment of water rate leviable or charged, such installments, within such dates and to such officers it shall be paid, payment of the rate of interest for default in payment. Any other sum due to the State Government or to a canal-officer and any rent or installment thereof payable to the owner of a field-channel, which is not paid when it becomes due shall be recoverable as an arrear of land revenue.

Clauses 37 and 38.-These clauses provide for general penalties for damaging canal and endangering the stability of canal in the matters specified therein.

Clause 39.-This clause provides that when any person is convicted under section 37 or 38, the Magistrate may order for removal of the obstruction or repair of the damage failing which the canal-officer may remove such obstruction or repair such damage and the cost of such removal or repair, shall be leviable from such person by the Collector as an arrear of land revenue.

Clause 40.-This clause provides that the person employed on canal may take offenders who wilfully damages, obstructs or fouls any canal, or without proper authority interferes with the supply or flow of water, into custody without a warrant and take forth with before a magistrate or to the nearest police-station.

Clause 41.-This clause provides that nothing shall prevent any person from being prosecuted under any other law for any act or omission made punishable under this Act.

Clause 42.-This clause provides that the whole or any part of fine may be paid by way of award to the informant.

Clause 43.-This clause provides that the appeal against the order of the canal-officer shall be filed within thirty days to the Appellate Authority, the manner of filing appeal and fees to be paid with the appeal.

Clause 44.-This clause provides that the Appellate Authority shall have the same powers of civil court for the purpose of making inquiries and all inquiries and appeals under this Act shall be deemed to be judicial proceedings.

Clause 45.-This clause provides for the procedure of service of notice to the person.

Clause 46.-This clause provides for usual indemnity for acts done in good faith.

Clause 47.-This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).

Clause 48.-This clause defines certain terms used in Chapter X of the Bill relating to construction and maintenance of tubewells, artesian wells and borewells.

Clause 49.-This clause empowers the State Government to specify, by notification in the *Official Gazette*, the areas to which the provisions of Chapter X shall apply and the date on and from which the provisions of Chapter X shall cease to apply to such area.

Clause 50.- This clause provides that no holder of any land assessed or held for the purpose of agriculture shall construct, or cause or permit to be constructed, any tubewell, artesian well or borewell, exceeding the depth for extracting ground water except under and in accordance with the terms and conditions of a licence issued under the provisions of Chapter X.

Clause 51.- This clause provides for the grant of licence to a holder of any agricultural land who desires to construct tubewell, artesian well or borewell and procedure for making application and for grant of licence.

Clause 52.- This clause provides for regulation of tubewell, artesian well or borewell which were in existence and the depth of such well was in excess of depth as prescribed under section 50 and grant of certificate to that effect to the holder of land.

Clause 53.- This clause provides for cancellation of licence on the ground that licence for construction of tubewell, artesian well or borewell granted under section 51 has been obtained by fraud or misrepresentation or the holder of a licence has failed to comply with the terms and conditions on which the licence has been granted, or has contravened any of the provisions of Chapter X or the rules made under section 57.

Clause 54.- This clause provides that the appeal against the order of the canal-officer under section 51, 53 or 55 shall be filed within thirty days to the Appellate Authority, the manner of filing appeal and fees to be paid with the appeal.

Clause 55.- This clause provides that the licence holder of tubewell, artesian well or borewell shall not allow or use of any water for a purpose other than for the purpose of agricultural or of drinking or to be wasted by any means and matters relating to regulations of use of water.

Clause 56.- This clause provides for general penalties for contravening the provisions of section 50, 52 or 57 or conditions of licence granted under section 51.

Clause 57.- This clause empowers the State Government to make rules generally for carrying out the purposes of Chapter X and particularly for matters specified in sub-clause (2).

Clause 58.- This clause empowers the State Government to remove difficulties arising in giving effect to the provisions of this Act, within two years from the commencement of the Act.

Clause 59.- This clause empowers the State Government to give directions to the canal-officer or other officers for the purpose of carrying out the provisions of this Act or the rules or orders made thereunder.

Clause 60.- This clause provides for repeal of the Gujarat Irrigation Act, 1879 and savings of the actions taken under the provisions of the Gujarat Irrigation Act, 1879.

BABUBHAI BOKHIRIA,

FINANCIAL MEMORANDUM

The Gujarat Irrigation and Drainage Bill, 2013 seeks to replace and repeal the Gujarat Irrigation Act, 1879. The administrative set-up already exists for carrying into effect the provisions of the existing Act and the same set up shall continue for the implementation of the provisions of the present Bill, if enacted. As such, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

BABUBHAI BOKHIRIA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely:-

- Clause 1.-** Sub-clause (3) of this clause empowers the State Government to appoint the date on which the Act shall come into force.
- Clause 3.-** (i) Sub-clause (a) of this clause empowers the State Government to appoint an officer as a canal officer and assign the powers to be exercised and duties to be performed by the canal-officer;
- (ii) sub-clause (b) of this clause empowers the State Government to authorise the Water Users' Association to appoint the office bearer of the Association to exercise powers and perform duties of the canal-officer and also specify the area of jurisdiction.
- Clause 4.-** This clause empowers the State Government to declare by notification in the *Official Gazette*, the date, not being earlier than three months from the date thereof, after which the water of any river or stream flowing in a natural channel, or of any lake or any other natural collection of still water shall be applied or used for the purpose of any existing or projected canal.
- Clause 11.-** Sub-clause (1) of this clause empowers the State Government to prohibit by notification in the *Official Gazette*, the formation of any obstruction of any river, stream or natural drainage-course or to order for the removal or modification of obstruction of any river, stream or natural drainage-course.
- Clause 14.-** Sub-clause (1) of this clause empowers the State Government to direct to prepare a scheme for drainage work necessary for the public health or for the improvement of the proper cultivation or irrigation of any land or protection from floods or other accumulations of water or from erosion by a river and for its execution.
- Clause 15.-** Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the field channel shall be maintained.
- Clause 16.-** (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form of application and the amount of fees to be paid by with the application for supply of water from a canal;

(ii) sub- clause (3) of this clause empowers the State Government to prescribe by rules, the conditions and restrictions, as to the limitation, control and measurement of the supply to impose in relation to the use of water subject to which the permission shall be granted for water to be taken.

Clause-20.- This clause empowers the State Government to prescribe by rules, entitlement of any person for remission of the water-rate payable by him for suffering loss from any stoppage or diminution of his water-supply due to any of the causes specified in clause (d).

Clause-24.- This clause empowers the State Government to prescribe by rules, the amount of compensation to be awarded for the damage caused by the entry, or in the execution of any work, to any crop, tree, building or other property under section 22 and the amount of compensation to be awarded for suffering any loss arising from interruption of supply of water to any land under section 23, by the Appellate Authority.

Clause 30.- Sub-clause (1) of this clause empowers the State Government to determine the rates of water charges leviable for canal-water supplied for the purposes of irrigation or for any other purpose.

Clause 31.- This clause empowers the State Government to prescribe by rules, the charges payable for unauthorized use of water supplied through a field-channel.

Clause 32.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the charges payable by a person or persons in-charge of water supplied through a field channel by whose act or neglect such water was suffered to run waste cannot be discovered.

Clause 36.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules,-

- (i) the installments of water rates to be paid;
- (ii) the dates on which, the officers to which and the manner in which the installments of water rates shall be paid; and
- (iii) the rate of interest to be paid and the period within which the rate of interest shall be paid if the person who is liable to pay such installment, makes default in such payment on the date when it becomes due.

Clause 43.- Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner in which, the authority to which and the fees to be accompanied with, the appeal shall be made against the order of the canal-officer.

- Clause 47.-** This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).
- Clause 49.-** This clause empowers the State Government to specify, by notification in the *Official Gazette*, the areas to which the provisions of Chapter X of the Act shall be applied and the date on and from which the provisions of Chapter X shall cease to apply to such area.
- Clause 50.-** This clause empowers the State Government to prescribe by rules, the depth for extracting ground water exceeding which no tubewell, artesian well or borewell shall be constructed;
- Clause 51.-** (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form of application and the particulars thereof, and the fees for the grant of a licence;
- (ii) sub-clause (4) of this clause empowers the State Government to prescribe by rules, the form of licence, the terms and conditions subject to which the licence for construction of tubewell, artesian well or borewell shall be granted to a holder of an agricultural land.
- Clause 52.-** This clause empowers the State Government to prescribe by rules, the form in which the holder of the agricultural land shall, furnish information in respect of any tubewell, artesian well or borewell already exists in agricultural land and the form in which the canal-officer shall grant a certificate to the holder of land.
- Clause 54.-** Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which, the authority to which and the fees to be accompanied with, the appeal shall be made against the order of the canal-officer made under Chapter X of the Act.
- Clause 57.-** This clause empowers the State Government to make rules generally for carrying out the purposes of Chapter X and particularly for matters specified in sub-clause (2).
- Clause 58.-** This clause empowers the State Government by order published in the *Official Gazette*, to make such provisions not inconsistent with the provisions of the Act as appear to it to be necessary or expedient for the removal of the difficulty.
- Clause 59.-** This clause empowers the State Government to issue such directions not inconsistent with the provisions of the Act to any canal officer or other officer for the purpose of carrying out the provisions of the Act or the rules or orders made thereunder.

The delegation of the legislative powers as aforesaid is necessary and of a normal character.

Gandhinagar,

BABUBHAI BOKHIRIA.

Dated the 16th February, 2013.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.

Dated the 18th February, 2013.

C. J. GOTH,

Secretary, to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT REGULARISATION OF UNAUTHORISED DEVELOPMENT (AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 3 OF 2013.

A BILL

*further to amend the Gujarat Regularisation of Unauthorised Development
Act, 2011.*

It is hereby enacted in the Sixty-fourth Year of the Republic of India
as follows:-

1. (1) This Act may be called the Gujarat Regularisation of Unauthorised
Development (Amendment) Act, 2013.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 20th February,
2012.

- Amendment of section 6 of Guj. 26 of 2011.** 2. In the Gujarat Regularisation of Unauthorised Development Act, 2011 (hereinafter referred to as "the principal Act"), in section 6, in sub-section (1), the words "if any, payable under relevant laws and the fees" shall be deleted. **Guj. 26 of 2011.**
- Amendment of section 8 of Guj. 26 of 2011.** 3. In the principal Act, in section 8, in sub-section (1), after clause (b), the following proviso shall be added, namely: – **Guj. 26 of 2011.**
- "Provided that notwithstanding anything contained in clauses (a) and (b), in case where land acquired by Government or belonging to Government, local authority or statutory body is allotted to any person at the rate as decided by the Government or is given on lease for a period of thirty years or more, the designated authority may regularise the unauthorised development on such land subject to the other provisions of the Act;"
- Amendment of section 10 of Guj. 26 of 2011.** 4. In the principal Act, in section 10, in sub-section (1), to clause (vi), the following proviso shall be inserted, namely: – **Guj. 26 of 2011.**
- "Provided that the designated authority may not refer to the Committee the following matters, namely:-
- (a) buildings used for residential purpose,
 - (b) non-residential buildings where the deficit parking does not exceed 200 sq. mtrs;"

STATEMENT OF OBJECTS AND REASONS

The Gujarat Regularisation of Unauthorised Development Act, 2011 has come into force in the State with effect from 20/02/2012. During the implementation of this Act, it has been found that certain amendments in the Act are required to achieve the purposes of the Act. As such it is considered necessary to do away with the fees payable under the other relevant laws as envisaged in sub-section (1) of section 6 of the Act. It is also considered necessary to regularise those unauthorised development carried out on the land acquired by or belonging to Government, local authority or statutory body which has been allotted to any person at the rate as decided by the Government or is given on lease for a period of thirty years or more. Similarly, it is also considered necessary to amend the provisions relating to parking as envisaged under section 10 of the Act to the effect that the designated authority may not refer the matter to the Committee in case of residential buildings or where there is deficit parking not exceeding 200 metres in case of non-residential buildings.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

Gandhinagar,

ANANDIBEN PATEL.

Dated the 20th February, 2013.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 20th February, 2013.

C. J. GOTHI.

Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by Shri Jagroopsing Rajput M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

GUJARAT BILL No. 4 OF 2013.

THE GUJARAT PREVENTION OF ACCIDENTS ON HIGHWAYS BILL, 2013.

A BILL

to make provisions for prevention of accidents on highways and for matters connected therewith.

It is hereby enacted in the Sixty Fourth Year of the Republic of India, as follows:-

1. (1) This Act may be called the Gujarat Prevention of Accidents on Highways Act, 2013. Short title and commencement.

(2) It shall come into force at once.

Definitions. 2. In this Act, unless the context otherwise requires,-

(a) "Special Authority" means the Authority constituted under section-3 of this Act.

(b) "Highway" means, State Highways, National Highways and such other roads as may be classified as such by the State Government.

(c) "Traffic Police" means a section of the Gujarat Police looking after the regulations of Highways Traffic.

(d) The expressions which are used, but not defined shall have the same meaning as being given in the Motor vehicles Act, 1988. Lix of 1988.

Establishment of Special Authority.

3. (1) The State Government shall by notification in the *Official gazette* establish a special Authority to Supervise and work for the prevention of accidents on highways in the State of Gujarat.

(2) The Special Authority shall consist of the Chairman and such other members not exceeding 14 as may be appointed by the State Government.

Provided that at least two members of the Gujarat Legislative Assembly shall be appointed on the Special Authority.

Tenure of the members of the Special Authority.

4. (1) The Chairman and members of the Special Authority shall be appointed for period of 3 years from the date of appointment.

Provided that the members of Gujarat Legislative Assembly shall continue to be members for full term of the Special Authority eventhough they cease to be members of the Assembly.

Payment of Allowances to the Chairman and other members of the Special Authority.

5. The Chairman and members of the Special Authority shall not be entitled to receive any salary but they shall be entitled to receive the allowances for performing their duties as may be determined by Government.

Staff under the special Authority.

6. (1) The staff under the Special Authority shall consist of--

(a) Secretary, who shall be appointed by the Government and;

(b) Such other employees as the Special Authority may, with the previous approval of the State Government, appoint from time to time.

(2) The Salary of the Secretary and other employees shall be such as may be prescribed.

(3) The other terms and conditions of the services of the Secretary and other employees shall be such as may be prescribed.

7. The function of the Special Authority shall be;

**Functions of
the special
Authority.**

(a) to supervise the road traffic and to suggest the measures for avoiding accidents on the highways.

(b) to keep record of accidents and to find out the common causes of the accidents and to suggest the remedial measures.

(c) to suggest changes in the existing highway traffic rules.

(d) The State highway police shall implement the suggestions made by the special Authority and shall also carry out the instructions issued by it and will provide necessary assistance to the Authority.

8. (1) The Government may frame the rules by notification in the Official Gazette to carry out the objects of the Act. **Rules.**

(2) The rules made under this Section shall be made before the Legislature of the State at the sessions thereof next following and shall be liable to be modified or rescinded by a resolution passed by the Legislature and such rules after notifying in the Official gazette, be deemed to have been modified or rescinded accordingly.

STATEMENT OF OBJECTS AND REASONS

As present the road Accident on the Highways of Gujarat are increasing at an alarming rate. Every day several accidents occur on the Highways resulting in loss of lives of the people and also making many people invalid by severe and permanent injuries;

The exiting machinery of highway Police which looks after the highway traffic is not sufficient to check the highway accident.

Therefore, a separate Special Authority is proposed to be set up to suggest measures and issue directions to the Highway traffic Police with a view to control and minimise accidents taking places on highways of Gujarat.

Dated the 31st January, 2013.
Gandhinagar.

JAGROOPSING RAJPUT, M.L.A.

FINANCIAL MEMORANDUM

Section 5 and 6 of the bill provides for giving salaries and allowances to the Chairman, Members and Staff of the special Authority which may involve expenditure from the consolidated Fund of the State of about Rs. 15 lacs per years.

Dated the 31st January, 2013.
Gandhinagar.

JAGROOPSING RAJPUT, M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of Legislative powers in the following respects :-

Clause 3.--This clause empowers the State Government to appoint by notification in the *Official Gazette*, a Special Authority.

Clause 5.--This clause empowers the State Government to determine the allowances to the chairman and Members of the special Authority.

Clause 6.--This clause empowers the State Government to approve the strength and other conditions of services of the Secretary and employees under the Special Authority.

Clause 8.--This clause empowers the State Government to frame the rules to carry out the objects of the Act.

The delegation of Legislative powers are of normal character.

Dated the 31st January, 2013.
Gandhinagar.

JAGROOPSING RAJPUT, M.L.A.

Gandhinagar
Dated the 21st February, 2013

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by Shri Rajendra Trivedi M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

GUJARAT BILL NO. 5 OF 2013.

THE GUJARAT PREVENTION OF THE PEOPLE FROM ILLEGALLY PULLING OUT WATER FROM THE GOVT. NETWORK OF WATER SUPPLY BILL, 2013.

A BILL

To prevent the people from illegally pulling out water from the network of water supply which is made by the State Govt, in the whole State for the arrangements of water distribution under the Water Supply Scheme and to enact an effective law against such people.

It is hereby enacted in the sixty fourth year of the Republic of India as follows :

- (1) This Act may be called the Gujarat Prevention of the people short title extent from illegally pulling out Water from Govt. Network of Water and commencement. Supply Act, 2013.

(2) It extends the whole of the State of Gujarat.

(3) It shall come into force at once.

2. Definitions

Definitions.

In this Act, unless the context otherwise requires-

- (1) 'Canal' includes -

All canals, channels constructed, maintained or controlled by Govt. for the supply of storage of water.

- (2) 'Water-course' means a channel constructed and maintained at the cost of the Govt. to supply water from an outlet.
- (3) 'Field-channel' means any channel or pipe constructed and maintained by the holder of land either by himself or jointly.
- (4) 'Outlet' means an opening which is constructed by the State Government.
- (5) 'Collector' includes any officer appointed by the State Govt. to exercise all or any of the powers of a Collector under this Act.
- (6) 'Canal officer' means any officer lawfully appointed or invested with powers.
- (7) 'Owner' includes every person having a joint interest in the ownership of the thing specified.
- (8) 'Prescribed' means prescribed by rules made under this Act.
- (9) 'The Land Acquisition Act' means the Land Acquisition Act, 1894.
- (10) 'The Land Revenue Code' means the Bombay Land Revenue Code Act, 1879.

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|--|-----------|---|
| Appointment of Canal officers. | 3. | The State Govt. may appoint any officer with such powers and duties under this Act. |
| Power to cut-off water supply. | 4. | The Canal officer after due consideration with the authority may cut-off the water supply. |
| Power of canal officers. | 5. | Any Canal officer may enter on any land, remove any obstruction, close any channel for the purpose of preventing people from illegally pulling out water from the Government Network of Water Supply. |
| Entry for Enquiry And prosecution. | 6. | Any Canal officer may enter upon such land as he may think necessary for the purpose and stop the people from illegally pulling out water from Govt. network of water supply and do all other things necessary for the prosecution of such inquiry. |
| Liability When Water Runs to waste. | 7. | If water supplied through a field channel be suffered to run to waste, and if, after inquiry, the person through whose act or neglect such water was suffered to run to waste was not be discovered, the person or all the persons chargeable in respect of the water supplied through such field channel shall be liable, or jointly liable as the case may be, for the charges which shall be made in respect of the water so wasted, under the rules prescribed by the State Government. |
| Punishment By Civil Judge. | 8. | Any person who found guilty of illegally pulling out water from the Govt. network of water supply shall be punished by Civil Judge with simple imprisonment for a term which may be extend to six months or with fine which may extend to five thousand rupees or with both. |

- Appeal.** 9. Any person aggrieved by an order of the Civil Judge may prefer an appeal to the appellate court against such order within the prescribed time limit.
- Protection of acts Done in Good faith.** 10. No suit, prosecution or other legal proceeding shall lie against the state govt. or any officer or servant of State Government in respect of anything done in good-faith or intended to be done in pursuance of the Act or any rules or orders made thereunder.
- Power to Make rules.** 11. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.
- (2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to such rescission or modification as the State Legislature may make during the session in which they are so laid or the session immediately following.
- (3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon takes effect.

GANDHINAGAR.

Dated the 31st January, 2013.

RAJENDRA TRIVEDI,

M.L.A.

STATEMENT OF OBJECTS AND REASONS

The Government has enacted the Act, namely: The Bombay Irrigation Act, 1879 by which the Government of Gujarat has make provision for the Construction, maintenance and regulation of canals, for the supply of water there from and for the levy of rates for water so supplied, but there is no effective law to stop the people from illegally pulling out water from the network of water supply which is made by the State Government in the whole State for arrangements of water distribution under the water supply scheme and therefore it is necessary to enact effective new law.

This Bill seeks to achieve the above objects.

GANDHINAGAR.

Dated the 31st January, 2013

RAJENDRA TRIVEDI,

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause-10 of the Bill empowers the State Government to make rules for carrying out the purposes of this Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

GANDHINAGAR.

Dated the 31st January, 2013

RAJENDRA TRIVEDI,

M.L.A.

Gandhinagar

Dated the 21st February, 2013.

D. M. Patel,

Secretary,

Gujarat legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by Shri Harsh Sanghvi M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 6 OF 2013

THE GUJARAT PROHIBITION OF SMOKING IN CERTAIN PUBLIC PLACES BILL, 2013.

A BILL

*to provide for prohibition of smoking in public places and to prohibit
hookah bars and giving protection to Health of non-smoking and
matters connected therewith.*

It is hereby enacted in the sixty-fourth year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Prohibition of Smoking in Certain Public Places Act, 2013. Short title,
extent and
commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (1) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code.
- (2) "public place" means a place including a garden shows, theatres halls, transport vehicles, road, street or way, whether a thorough fare or not and a landing place to which a public are granted access to or have a right to resort or over which they have right to pass.
- (3) "Government premises" means any building own or rented by the Central or State Government or local authorities including building where the Government offices are situated.
- (4) "hookah bar" means a place where a customer is served smoking facility in *hookah* which contains substance like nicotine, etc. hazardous to health;
- (5) "Special Officer" means a Government Officer designated as such for the purpose of implementation of this Act.

Prohibition of smoking at certain places and hookah bar and penalty on contravention.

3. (1) No person shall smoke at public places or at Government premises or a place of entertainment (including a cinematograph exhibition, dance or drama) to which members of the public are admitted.
- (2) The restaurant, hotel, cafes or other places of amusement shall be construed *hookah bar* for the purpose of this section and the owner of such places shall require to see that *hookah* is not served or a customer is not allowed to smoke *hookah* at such places.
- (3) Any person who contravenes the provisions of this section shall be liable to penalty of rupees five hundred which may extend to five thousand rupees.

Appointment of a Special Officer.

4. A special officer appointed by the State Government shall superintend that the prohibition under this Act is strictly implemented and any contravention to the provision is punished.

Discouragement of smoking habit and encouragement to the non-smokers.

5. (1) The State Government may discourage the smoking habit of people and encourage the persons who are non-smokers for lifetime by conferring honour and awards to such people.
- (2) It shall be the duty of the Special Officer to arrange programmes for public awareness about non-smoking in the society.

STATEMENT OF OBJECTS AND REASONS

Smoking at public places as well as in the Government owned buildings and offices has become matter of great concern now a days. The non-smoker folk has also to suffer due to this nuisance.

Moreover, in the recent time the youths are provided facilities of smoking *hookah* at hookah bar. This being hazardous to health requires prohibitory measures.

Hence it is considered necessary to enact a law which prohibits smoking at public places, Government premises and at hookah bar.

It also provide for efforts by the State Government for encouraging non-smoker folk by awarding honour to such people.

Hence this Bill.

GANDHINAGAR.

HARSH SANGHVI, M. L. A.

Dated the 31st January, 2013

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in the following respect:-

Clause 4- of the Bill empowers the state government to appoint special officer for the purpose of implementation of this Act.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

GANDHINAGAR.

HARSH SANGHVI, M. L. A.

Dated the 31st January, 2013

GANDHINAGAR.

D. M. PATEL,

Dated the 21st February, 2013

Secretary,

Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by Shri Punambhai Makvana M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

GUJARAT BILL NO. 7 OF 2013.

THE GUJARAT PROHIBITION ON ADVERTISEMENTS BY DRAWING PHOTOGRAPHS AND POSTERS ON PUBLIC WALLS BILL, 2013.

A BILL

to provide for the prohibition of advertisements by drawing photographs and posters on the public walls by certain elements for maintaining the beauty in the whole of State of Gujarat.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows :-

- | | | | |
|-------------|----|---|---|
| | 1. | (1) This Act may be called the Gujarat Prohibition on advertisements by drawing, photographs and posters on public walls Act, 2013. | Short title, extent and commencement. |
| | | (2) It extends the whole of the State of Gujarat. | |
| | | (3) It shall come into force at once. | |
| 45 of 1860. | 2. | In this Act, unless the context otherwise requires, the word "obscene" shall have the meaning assigned to it in the Indian Penal Code. | Definition. |
| | 3. | No person shall disturb the beauty in a village, town or city by way of obscene advertisements on public walls by drawing posters of photographs, whatsoever. | Prohibition on advertisements by drawing photographs and posters. |
| | 4. | Any action in contravention of the provisions contained in section 3, shall constitute a cognizable offence. | Offence. |

- Punishment.** 5. Any person found guilty of the offence under section 3 shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.
- Rules.** 6. The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Of late, the advertisements on public walls in a village, town or a city by way of drawing photographs and posters are being resorted to on a wide scale. This creates an unhealthy atmosphere for the society in general and particularly for the younger generation. This is totally against the moral concept of public opinion.

It is therefore high time now that steps should be taken through legislation to prevent this immoral practice, as existing Laws of Rules thereunder are found inadequate and ineffective.

This Bill seeks to achieve the above objects.

GANDHINAGAR

Dated the 5th February, 2013.

PUNAMBHAI MAKVANA,

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the State Government to make rules for carrying out the purpose of this Act.

The proposed delegation of legislative power is necessary and is of normal character.

GANDHINAGAR

Dated the 5th February, 2013.

PUNAMBHAI MAKVANA,

M.L.A.

GANDHINAGAR

Dated the 21st February, 2013.

D.M.PATEL,

Secretary,

Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by Shri Ashokkumar Patel M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

GUJARAT BILL NO. 8 OF 2013

THE GUJARAT NON-BIODEGRADABLE GARBAGE (CONTROL) BILL, 2013

A BILL

to prevent throwing or depositing of non-biodegradable Garbage in public drains, roads and place open to public view in the State of Gujarat and for matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Gujarat Non-biodegradable Garbage (Control) Act, 2013

Short title, extent and commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires :-

Definition.

(a) "bio-degradable garbage" means the garbage or waste material capable of being destroyed by the action of living beings;

(a) "building" means any shop, out-house, hut, house, shed or stable whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever, and includes a wall and a well;

(c) "house gulley" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as or carrying a drain or affording access to the latrine, urinal, cesspoll or other receptacle for fifth or other polluted matter, by person employed in the cleaning thereof or in the removal or such matter therefrom,

(d) "local authority" means a Municipal Corporation, a Municipality, a Cantonment Board, a Housing Board, a Slum Clearance Board, an Urban Development Authority, a Notified Area Committee, a District Panchayat, a Taluka Panchayat or a Gram Panchayat constituted, under any law for the time being in force;

(e) "market" includes any place where person assemble for sale or purchase of meat, fish, fruits, vegetables, food or any other articles for use or consumption with or without the consent of the owner of such places notwithstanding that there may be no common regulation for the concourse of the buyer and the sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or by any other person;

(f) "no-biodegradable garbage" means the waste garbage of material which is non-bio-degradable and includes plastic poly thene, nylon and other plastic goods such as P.V.C. propylene and polystyrene which are not capable of being destroyed by an action of living being and are more specifically included in the Scheduled to this act;

(g) "occupier" includes any person for the time being paying or liable to payment or any portion of rent of the building in respect of which the word is used, or compensation or premium on account of the occupation of such building and also a rent free tenant, but does not include a lodger, and the words occupy and occupation do not refer to the lodger;

(h) "owner" means the person who receives the rent for the use of the land or building or would be entitled to do so if they were let. it also includes-

(i) an agent or trustee who receives such rent on behalf of the owner;

(ii) a receiver, executor or administrator of or a manager appointed by any court of competent jurisdiction to have the charge, of or to exercise the right of the owner;

(iii) an agent or trustee who receives the rent of or is entrusted with or is concerned with any building devoted to religious or charitable purpose; and

(iv) a mortgage in possession;

(i) "place" means any land or building or part of building and includes the garden, ground and out-houses, if any, pertaining to a building or part of a building;

(j) "place open to public view" includes any private place or building, monument, fence or balcony visible to a person being in, or passing along, any public place;

29 of 1986.

(k) "prescribed" means prescribed by rules made under this Act;

(1) "Public Analyst " means the person appointed or recognised to be the Government Analyst, in relation to any environmental laboratory established or recognised in the State, under the provisions of the Environment (Protection) Act, 1986;

(m) "Public place" means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, Market, house-gully or way, whether a throughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass; and

(n) "State Government" means the Government of the State of Gujarat.

3. (1) No person, by himself or through another shall, knowingly or otherwise throw or cause to be thrown in any drain, ventilation shaft, pipe and fitting, connected with the private or public drainage works any non-biodegradable garbage or any biodegradable garbage in non-biodegradable bag or container likely to-

Prohibition to throw garbage in public drains and sewage.

- (i) injure the drainage and sewage system;
- (ii) interfere with the free flow of effect the treatment and disposal of drain and sewage contents; and
- (iii) be dangerous or cause a nuisance or be prejudicial to public health.

(2) No person, shall, knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such safeguards as may be prescribed, any bio-degradable or non-biodegradable garbage in any public place or in a place open to public view, unless-

(a) the garbage is placed in garbage receptable; or

(b) the garbage is deposited in a location designated by a local authority having jurisdiction on an area for the disposal of the garbage.

4. It shall be the duty of the local authority or any officer authorised by it, to-

Provision for Placement of receptable and places for deposit of non biodegradable garbage.

(a) place or provide place in proper and convenient situation public receptable, depots of places for temporary deposit or collection of Non-biodegradable garbage;

(b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of biodegradable garbage;

(c) provide for the removal of contents of receptables, deposit and of the accumulation at all places provided or appointed by it under clause (a) of this section; and

(d) arrange for the recycling disposal of the non-biodegradable garbage collected under this Act.

5. It shall be the duty of the owners and occupiers of all lands and buildings-

Duty of owners and occupiers to collect and deposit non biodegradable garbage etc.

(a) to collect or to cause to be collected from their respective land and buildings, the non-biodegradable garbage and to deposit, or cause it to be deposited, in public receptables, deposite or places provided for temporary deposit or collection of the non-biodegradable garbage by the local authority in the area;

(b) To provide separate receptables or dustbins, other than those kept and maintained for deposit of biodegradable garbage, of the type and in the manner prescribed by the local authority of its officers for collection therein of all the non-biodegradable waste from such land and building and to keep such receptables dustbins in good condition and repair.

Power of local authority for removal of non biodegradable garbage.

6. The local authority may, by notice in writing, require the owner or occupier or part-owner, or person, claiming to be the owner, or part owner of any land or building, which has become a place or unauthorised stocking or deposit of non-biodegradable, garbage and is likely to cause a nuisance remove or cause it to be removed the said garbage so stocked or collected; and if in its opinion, such stocking or collection of non-biodegradable waste is likely to injure the drainage or sewage system or is likely to be dangerous to life and health, it shall forthwith take such steps at the cost of such persons as it may think necessary.

Studies research and support programme.

7. The State Government may :-

(a) undertake studies to determine the composition of biodegradable or non-biodegradable garbage;

(b) establish measures to conduct or support research or programme to encourage source reduction, re-use and recycling of waste;

(c) conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes, including studies of the type and amount of recyclable materials in solid wastes.

(d) encourage local authorities in the State of Gujarat to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pick up;

(e) undertake and encourage local authorities and other persons to implement policies to recycle waste materials; to promote energy conservation and to purchase products made from recyclable materials;

(f) conduct and support research on waste management and recycling including information on recyclables;

(g) conduct or support research on waste management and recycling, for use in educating the public, local authorities, institutions and industry; and

(h) impose requirements on manufacturers, distributors and other person who produce or handle commodities with respect to the type, size, packaging, labelling and composition of packing that may or must be used and with respect to the disposal of packaging including standards for material degradability and recyclability.

Penalties.

8. (1) Whoever is guilty of any act or omission in contravention of any of the provisions of this Act, or of any rules, notification or order made, issued or given under this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to rupees five thousand, or with both.

(2) Whoever having been convicted of any offence under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence

(3) Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act shall on conviction be punished with imprisonment prescribed for the offence.

9. (1) If The person committing any offence punishable under this Act is a company, every person, at the time of the commission of the offence, was incharge of and responsible to the company for the conduct of the business or guilty of the offence shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1) Where an offence under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on of the part of any Director, Manager, Secretary, or other officer of the Company, such Direction Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation,—For the purposes of this Section—

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

10. All offences under this Act shall be tried in a Summary way by a Judicial Magistrate of the First Class and the provisions of Section 262 to 265 (both inclusive) of the Code of Criminal Procedure 1973, shall as far as may be, apply to such trials.

Offence to be tried summarily.

11. (1) Any offences punishable under this Act may, before the institution of the prosecution, be compounded by such officer as may be authorised by the State Government in this behalf on payment for credit to the State Government of such sum as such officer may specify.

Compounding of offences.

(2) Where any offence has been compounded under sub-section (1), no proceeding shall be taken against the offender, and the offender if in custody, shall be discharged.

12. The local authority shall carry out such directions as may be issued to it from time, by the State Government for the efficient administration of this Act.

Direction by State Government.

13. (1) Where it is expedient to do so, the State Government may, in the public interest and in consultation with the public Analyst, by notification in the *Official Gazette*, add to or omit from the Schedule any item of non-biodegradable waste and thereafter the Schedule shall be deemed to have been amended accordingly.

Power to amend Schedule.

(2) Every notification under Sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

14. The State Government may, by notification published in the *Official Gazette*, direct that any power exercisable by it under Act (Not including the power to make rules under section 17) may also be exercised, in such cases as may be specified in the order, by such officer or authority as may be specified therein.

Power to delegate.

15. No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officers or other employees of the State Government or the local authority or any other person authorised by the State Government for anything which is in good faith done or intended to be done under this

Protection of action taken in good faith.

Act or the rules made thereunder.

Other laws
not affected.

16. The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force.

Power to
make rules.

17. (1) The State Government may subject to the condition of previous publication in the *Official Gazette* make rules for the purpose of carrying out the provisions of this Act.

(2) All rules made under this section shall be laid before the State Legislature for thirty days as soon as after they are made and shall be subject to such modifications or recessions as the State Government may make during the session in which they are so laid or the session immediately following.

(3) Any modifications or recission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect accordingly.

Power to
remove
difficulties.

18. If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

SCHEDULE

See Section 2 (f)

NON BIODEGRADABLE GARBAGE

1. Polythylene -
 2. Nylone
 3. P. V. C.
 4. Poly-propylene
 5. Poly-styrene.
-

PART VI

STATEMENT OF OBJECTS AND REASONS

At present, the use of Plastic goods is pervading for the industrial and other purposes at large in the State. This results in huge waste garbage or litter which is non-biodegradable which is not capable of being destroyed by action of living being. The cows, cattle and other animals, in search of eatables eat plastic bags and chemicalised waste, which is very injurious even to the health of these animals. The animals eating those non-biodegradable garbage suffer from various diseases and ultimately it results into death of these innocent animals. Such non-biodegradable garbage is injurious and harmful to the environment, human being and the animal being also. Therefore, it is necessary to have effective control for the disposal of the non-biodegradable garbage in the State by Act of the State Legislature.

Hence, this Bill.

Gandhinagar.

Dated : 5th February, 2013.

ASHOKKUMAR PATEL

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The bill involves delegations of legislative powers in the following respects, namely :-

Clause 12. — This clause empowers the State Government to issue the directions to the local authorities from time to time for the efficient administration of this Act.

Clause 13. — This clause empowers the State Government to amend the Schedule by publishing a notification in the *Official Gazette*.

Clause 14.— This clause empowers the State Government to specify such officer or authority to be exercisable by it under this Act (excluding the power to make rules).

Clause 17. — This clause empowers the State Government to make rules for the purposes of carrying out provisions of this Act.

Clause 18. — This clause empowers the State Government to do anything by an order anything not inconsistent with such provisions which appears to it to be necessary for the purpose of removing the difficulty, if any difficulty arises in giving effect to the provision of the Act.

The delegation of the Legislative powers as aforesaid is necessary and is of normal character.

Gandhinagar.

Dated : 5th February, 2013.

ASHOKKUMAR PATEL

M.L.A.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for undertaking studies, research and support programme by the State Government in regard to the non-biodegradable garbages, This bill if enacted and brought into operation would not incur expenditure from the Consolidated Fund of the State, as it is presumed and expected that such studies, research and support programmes will be undertaken or conducted by the existing Government personnel and machineries and therefore no additional expenditure will be incurred from the Consolidated Fund of the State.

Gandhinagar.

Dated : 5th February, 2013.

ASHOKKUMAR PATEL

M.L.A.

GANDHINAGAR

Dated the 21st February, 2013.

D.M.PATEL

Secretary,

Gujarat Legislative Assembly.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by
Smt. Tejashreeben Patel M.L.A. is published under rule 127-A of the
Gujarat Legislative Assembly Rules for general information

GUJARAT BILL NO. 9 OF 2013.

THE GUJARAT PROHIBITION OF RAGGING BILL, 2013.

A BILL

to prohibit ragging in educational institutions in the State of Gujarat and for matters connected therewith.

WHEREAS, it is expedient to enact a special law to prohibit ragging in educational institutions in the State of Gujarat;

It is hereby enacted in the Sixty-Fourth Year of Republic of India as follows :-

1. (1) This Act may be called the Gujarat Prohibition of Ragging Act, 2013.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may by notification in the *Official Gazette*, appoint.

Short title,
extent and
Commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (a) "educational institution" means and includes a College, or other Institution by whatever name called, carrying on the activity or imparting education therein (either exclusively or among other activities); and includes an orphanage or a boarding home or hosted or a tutorial institution or any other premises attached thereto;
- (b) "head of the educational institution" means the Vice-Chancellor of the University, Dean of the Medical faculty, Director of the Institution, or the Principal, Headmaster or the person responsible for the management of the institution;
- (c) "ragging" means display of disorderly conduct, doing any act which causes or is likely to cause physical or psychological harm or raise apprehension or fear or shame or embarrassment to a student in any educational institution and includes:-
 - (i) teasing, abusing, threatening or playing practical jokes on, or causing hurt to, such student; or
 - (ii) asking a student to do any act or perform something which such student will not, in the ordinary course, willingly do.

Prohibition of ragging.

3. Ragging within or outside any educational institution is an offence punishable under this Act.

Penalty for ragging.

4. Any person who directly or indirectly commits, participates in, abets or propagates ragging within or outside any educational institution shall, on conviction, be punished with imprisonment for a term which may extend to two years and shall also be liable to a fine which may extend to ten thousand rupees.

Dismissal of student

5. Person who is convicted under Section 4, is a student, he shall be dismissed from the educational institution and such student shall not be admitted in any other educational institution for a period of five years from the date of order of such dismissal.

6. (1) Whenever any student or, as the case may be, the parent or guardian, or a teacher of an educational institution complains, in writing of ragging to the head of the educational institution, the head of the educational institution shall without prejudice to the foregoing provisions, within seven days of the receipt of the complaint inquire in to the matter mentioned in the complaint and if, prima-facie, it is found true, suspend the student who is accused of the offence, and shall, immediately forward the complaint to the Police-Station having jurisdiction over the area in which the educational institution is situated, for further action.

(2) Where, on inquiry by the head of the educational institution, It is proved that there is no substance, prima-facie, in the complaint received under sub-section (1), he shall intimate the fact, in writing, to the complainant.

(3) The decision of the head of the educational institution that the student has indulged in ragging under sub-section (1), shall be final.

7. If the head of the educational institution fails or neglects to take action in the matter specified in section 6 when a complaint of ragging is made, such person shall be deemed to have abetted the offence of ragging and shall, on conviction, be published as per the provisions of section 4. **Deemed abetment.**

8. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. **Power to make rules.**

(2) Rules made under this Section shall be laid before the State Legislature for a period of thirty days as soon as possible after they are made and shall be subject to such modifications or rescission as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any modification or rescission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

STATEMENT OF OBJECTS AND REASONS

In recent year there has been a significant increase in the complaints of ragging in educational institutions. Ragging is a stigma on the educational institutions and it should be nipped in bud. Ragging causes physical or psychological harm or raise fear or shame to a student in any educational institution. It is, therefore expedient in the educational institutions interest to device Legislative measure.

Hense this Bill.

Gandhinagar.

TEJASHREEBEN PATEL,

Dated the 6th February, 2013.

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub clause (3) of clause (1) empowers the State Government to specify the date on which the Act shall come into force.

Sub clause (1) of clause (8) empowers the State Government to make rules to carry out the purposes of the Act.

The delegation of Legislative powers as aforesaid is essential and of normal character.

Gandhinagar.

TEJASHREEBEN PATEL,

Dated the 6th February, 2013.

M. L. A.

Gandhinagar.

D. M. PATEL,

Dated the 21st February, 2013.

Secretary,

Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by Shri Manilal Vaghela M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

Gujarat Bill No. 10 2013.

THE GUJARAT STATE SPORTSMEN ENCOURAGEMENT BILL, 2013.

A BILL

to provide assistance and encouragement to the leading sportsmen of the State and matters connected there with.

It is hereby enacted in the Sixty fourth year of the republic of India as follows:

1. (1) This Act may be called the Gujarat State Sportsmen Encouragement Act, 2013 Short title,
Extent and
Commencement.
(2) It extends to the whole of the State of Gujarat.
(3) It shall come into force at once.
2. In this Act, unless the context otherwise requires :- Definition.
 - (a) "Prominent Sportsman or Promising Sportsman who has secured first, second and third place in any National or International level event of the Sports or Games.
 - (b) "Promising Sportsman" means a Sportsman who has secured first, second or third place in State level competition of the Sports or games.

(c) "Sportsman" includes Sportswoman.

(d) "Government" means the Government of the state of Gujarat

- | | |
|---------------------------------|--|
| Free hostel Facility. | 3. Prominent Sportsman or Promising Sportsman may be provided free Lodging, Boarding and practice facility in the Sports Hostels established by the State Government. |
| Scholarship. | 4. Prominent Sportsman shall be given Scholarship of Rupees five thousand for the year in which he secured first, second or third place. |
| Facility. | 5. Prominent Sportsman and Promising Sportsman on application made in this behalf may be granted a loan without interest up to rupees ten thousand repayable in maximum fifty monthly installments. |
| Encouragement Amount. | 6. Prominent Sportsman or Promising Sportsman who is called for selection trial for any international sports meet may be granted a sum of rupees ten thousand as encouragement amount. |
| Special Assistance Award | 7. A Sportsman who has represented or selected for representing India in any international Sports meet may be granted a sum of Rupees 25,000/- as a special assistance award. |
| Free Residential plot. | 8. A Prominent Sportsman or Promising Sportsman shall be allotted free residential plot measuring 200 sq.m. at the place where he ordinarily resides. |
| Power to Make rules. | 9. (1) The State Government may make rules for carrying out purposes of this Act.

(2) In particular and without prejudice to the generality of foregoing power, such rules may be made to provide for all or any of the following matters, namely :-

(a) The authority by which and the manner in which free Lodging, Boarding and practice facility is to provided.

(b) Rules regulating the award to be given to Prominent Sportsman and Promising Sportsman.

(c) Rules regulating grant of loans, encouragement award and special assistance award.

(3) All rule made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following. |

STATEMENT OF OBJECTS AND REASONS.

Many promising and prominent sportsmen of the State of Gujarat are facing difficulties of finance. Such Sportsmen who are representing Gujarat State or India and earning glory for the State and National deserve encouragement as well as assistance from the State. The present facility like nominal scholarship is highly inadequate. No loan or scholarship is available to them. Adequate facility for practice, free lodging and boarding facility etc. Should be provided to the leading sportsmen. Government should help such sportsmen who earns glory for State and Nation and thereby put name of the State of Gujarat on the top of the medal tally of the National and International level sports meet.

Dated the 6th February, 2013.
Gandhinagar.

MANILAL VAGHELA,
M.L.A.

FINANCIAL MEMORANDUM

The Bill involves expenditure in the following respects :-

- (1) **Clause 4** of the Bill provides for granting of scholarship of Rs.5000/-to prominent sportsman
- (2) **Clause 5** of the Bill provides for loan facility to both prominent as well as Promising Sportsman.
- (3) **Clause 6** of the Bill provides for granting a sum of Rs. 10,000/- as an encouragement amount.
- (4) **Clause 7** of the Bill provides for granting a sum of Rs. 25,000/- as a special assistance award.

These provisions if enacted and brought into operation, would involve an estimated annual expenditure of about Rs.25,00,000/- from the Consolidate Fund of the State, which would of recurring nature.

Dated the 6th February, 2013.
Gandhinagar.

MANILAL VAGHELA,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects:-

- Clause 9:-** (I) Sub-clause (1) of this clause empowers the State Government to make rules for carrying out the purposes of this Act.
- (II) Sub-clause (2) of this clause empowers the State Government to make rules in all or any of the following matters:-
- (a) the authority by which and the manner in which the free lodging, boarding and practice facilities to be provided;
 - (b) Regulating the award to be given to prominent sportsman and promising sportsman;
 - (c) Regulating grant of loans, encouragement amount and special assistance awards;

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 6th February, 2013.
Gandhinagar.

MANILAL VAGHELA,
M.L.A.

GANDHINAGAR.
DATED THE 21ST FEBRUARY, 2013.

D. M. PATEL,
secretary,
Gujarat Legislative Assembly.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill Which Was introduced on the 21st February, 2013 by Shri Balvantsinh Rajput M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

Gujarat Bill No. 11 OF 2013.

THE GUJARAT STATE VIGILANCE COMMISSION BILL, 2013.

A

BILL

to provide for the constitution of the Gujarat State Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988, by certain categories of public servants of the State Government, corporations, established by or under any State Act, Government companies, societies, local authorities, owned or controlled by the State Government and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-Fourth Year of the Republic of India as follows :-

CHAPTER I Preliminary

1. (1) This Act may be called the Gujarat State Vigilance Commission Act, 2013.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

Short title and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "Commission" means the Gujarat State Vigilance Commission, constituted under sub-section (1) of section 3;
- (b) "Government company" shall have the same meaning as assigned to it in the Companies Act, 1956 ;
- (c) "prescribed" means prescribed by rules made under this Act ;
- (d) "State Government" means the Government of the State of Gujarat;
- (e) "State Chief Vigilance Commissioner" means the State Chief Vigilance Commissioner, appointed under sub-section (1) of section 4;
- (f) "Vigilance Commissioner" means a Vigilance Commissioner, appointed under sub-Section (1) of section 4; and
- (g) "Vigilance and Police Establishment "means the Vigilance Bureau or the Police, entrusted with the inquiry and investigation of an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant may, under the Code of Criminal Procedure,- 1973, be charged at the same trial.

CHAPTER II

The Gujarat State Vigilance Commission

Constitution of the
Commission.

3. (1) There shall be constituted a body to be known as the Gujarat State Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Act.

(2) The Commission shall consist of—

- (a) the State Chief Vigilance " Chairperson
Commissioner; and
- (b) not more than two Vigilance " Members
Commissioners.

(3) The State Chief Vigilance Commissioner shall be appointed from amongst the persons, who have been or are in an All India Service or in any Civil Service of the Union or; State or in a Civil post under the Union or State having knowledge and experience in matters relating to vigilance, policy making and administration including police administration and in the rank and scale of Secretary to Government of India or the Chief Secretary of the State or who have been a Judge of the High Court.

(4) The Vigilance Commissioners shall be appointed from amongst the persons, who have been or are in an All India Service or in any Civil Service of the Union or State or in a civil post under the Union or State or a Government Company under or controlled by the Central Government or the State Government, and who have expertise and experience in finance including insurance and-banking, law, vigilance and investigations in the rank and pay scale of the Additional Secretary to Government of India or the Secretary of the State.

(5) The State Government shall appoint a Secretary to the Commission on such terms and conditions, as it deems fit to exercise such powers and discharge such duties, as the Commission may by

regulations specify in this behalf;

(6) The headquarters of the Commission shall be at Gandhinagar.

4, (1) The State Chief Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the Governor by warrant under his hand and seal:

Appointment of the State Chief Vigilance Commissioner and the Vigilance Commissioners.

Provided that every appointment under this sub-section shall be made on the recommendation of a Committee consisting of-

- | | | | |
|-----|----------------------------------|---|----------|
| (a) | the Chief Minister, Gujarat | : | Chairman |
| (b) | the Speaker | | |
| | of the Gujarat Vidhan Sabha; and | : | Member |
| (c) | the leader of the opposition | : | Member |
| | of Gujarat Vidhansabha | | |
| (d) | the Chief Secretary to | : | Member |
| | Government of Gujarat | | |

(2) No appointment of the State Chief Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in or any defect in the constitution of the Committee.

5. (1) Subject to the provisions of sub-sections (3) and (4), the State Chief Vigilance Commissioner shall hold office for a term of six years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is "earlier. The State Chief Vigilance Commissioner, on ceasing to hold the office, shall be ineligible for reappointment in the Commission.

Terms and other conditions of service of the State Chief Vigilance Commissioner and Vigilance Commissioners.

(2) Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of six years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

(3) The State Chief Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon, his office, make and subscribe before the Governor, or some other person-appointed in that behalf by him, an oath or affirmation in the Form, appended to this Act.

(4) The State Chief Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand, addressed to the Governor, resign his office.

(5) The State Chief Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the State Chief Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for—

- (a) any assignment or appointment, which is required by law to be made by the Governor by warrant under his hand and seal; and
- (b) further employment to any office of profit under the State Government.

(7) The salary and allowances payable to and the other conditions of service of—

(a) the State Chief Vigilance Commissioner shall be the same as those of the Secretary to Government of India or the Chief Secretary of the State or a Judge of the High Court, as the case may be; and

(b) the Vigilance Commissioner shall be the same as those of the Additional Secretary to Government of India or the Secretary of the State, as the case may be:

Provided that if the State Chief Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the State Government, his salary in respect of the service as the State Chief Vigilance Commissioner or any Vigilance Commissioner, as the case may be, shall be reduced by the amount of that pension including any portion of pension, which was commuted and pension equivalent to other forms of retiral benefits, excluding pension equivalent to retirement gratuity :

Provided further that if the State Chief Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of retiral benefits in respect of any previous service rendered in a corporation, established by or under any State Act or a Government company, owned or controlled by the State Government, his salary in respect of the service as the State Chief Vigilance Commissioner or, as the case may be, the Vigilance Commissioner, shall be reduced by the amount of pension equivalent to the retiral benefits :

Provided further that the salary, allowances and pension payable to and the other conditions of service of the State Chief Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

Removal of the State
Chief Vigilance
Commissioner and the
Vigilance
Commissioners.

6. (1) Subject to the provisions of sub-section (3), the State Chief Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the Governor on the ground of proven misbehavior or incapacity after the High Court, on a reference made to it by the Governor, has, on inquiry, reported that the State Chief Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office and if, deemed necessary, prohibit also from attending the office during inquiry the State Chief Vigilance Commissioner or any Vigilance Commissioner, as the case may be, in respect of whom a reference has been made to the High Court under sub-section (1) until the Governor has passed orders on receipt, of the report of the High Court on such-reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may, by order, remove from office of the State Chief Vigilance Commissioner or any Vigilance Commissioner, if the State Chief Vigilance Commissioner or such Vigilance Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

- (b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude ; or
- (c) engages during his term of office in any paid employment outside the duties of his office ; or
- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body ; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a State Chief Vigilance Commissioner or a Vigilance Commissioner.

(4) If the State Chief Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or Government of the State participates in any way in the profit thereof or is in any benefit or emolument arising therefrom otherwise than as a member and is in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehavior.

Government of
the State

7. The State Government may in consultation with the Commission, make rules with respect to the number of members of the staff of the Commission and their conditions of service.

Power to
make rules for
the staff

CHAPTER III

Powers and functions of the State Vigilance Commission

8. (1) The powers and functions of the Commission shall be to—

(a) exercise superintendence and control over the functioning of the Vigilance and Police Establishment in so far as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 or offences with which a public servant Specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial:

Powers and
functions of the
State Vigilance
Commission.

Provided that While exercising the powers of superintendence, the Commission shall not exercise powers in such a manner so as to require the Vigilance Bureau to investigate or dispose of any case in a particular manner;

(b) give directions to the Vigilance and Police Establishment for the purpose of discharging the responsibilities entrusted to it with reference to offences alleged to have been committed under the Prevention of corruption Act; 1988 or offences with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the Same trial :

Provided that while exercising the powers of giving directions, the Commission shall not exercise powers in such a manner so as to require the Vigilance Bureau to investigate or dispose of any case in a particular manner;

(c) inquire or Cause an inquiry or investigation to be made on a reference made by the State Government, wherein it is alleged that a public servant being an employee of the State Government or a corporation, established by or under any State Act, government company, society and any local authority, owned or controlled by the State Government; has committed

an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

- (d) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such, category of officials specified in sub-section (2) wherein, it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant; specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;
- (e) review the progress of investigations conducted by the Vigilance and Police Establishment into offences alleged to have been, committed under the Prevention of Corruption Act, 1988 or offence with which a public servant may, under the Code of Criminal Procedure 1973, be charged at the same trial;
- (f) review the progress of applications pending with the competent authorities for sanction of prosecution Under the Prevention of Corruption Act, 1988; or
- (g) tender advice to the State Government, corporations, established by or under any State Act, Government companies, societies and local authorities, owned or controlled by the Central Government, on vigilance cases related to the officers under its purview, and on such other matters, as may be referred to it by that Government, said Government companies, societies and local authorities, owned or controlled by the State Government; and
- (h) exercise superintendence over the Vigilance Administration of the various departments of the State Government or corporations, established by or under any State Act, Government companies, societies and local authorities; owned or controlled by that Government:

Provided that while exercising its powers to exercise superintendence over the Vigilance Administration, the Commission shall give due consideration to the instructions issued by the Central Vigilance Commission, established under the Central Vigilance Commission Act, 2003 (Central Act No. 45 of 2003).

(2) The persons referred to in clause (d) of sub-section (1), are as follows:—

- (a) members of All India Services serving in connection with the affairs of the State and Group 'A' officers of the State Government;
- (b) such other level of officers holding civil posts under the

State Government, as that Government may, by notification in the Official Gazette, specify in this behalf; and

- (c) such level of officers of the corporations, established by or under any State Act, Government companies, societies and other local authorities, owned or controlled by the State Government, as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that till such time a notification is issued under sub-clauses (b) and (c), all officers of the State Government, and the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1)

9. (1) The report of any inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

Report of any inquiry made on reference by Commission to be forwarded to the Commission.

(2) The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the State Government and corporations, established by or under any State Act, Government companies, societies and local authorities, owned or controlled by that Government, as the case may be, as to the further course of action.

(3) The State Government and the corporations, established by or under any State Act, Government companies, societies and other local authorities, owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action :

Provided that where the State Government, any corporation, established by or under any State Act, Government company, society or local authority, owned or controlled by the State Government, as the case may be, does not agree with the advice of the Commission, it shall, for the reasons to be recorded in writing, communicate the same to the Commission.

10. (1) The proceedings of the Commission shall be conducted at its headquarters.

Proceedings of the Commission

(2) The Commission shall regulate the procedure for the transaction of its business and the allocation of business amongst the State Chief Vigilance Commissioner and other Vigilance Commissioners by such regulations, as may be made by it under this Act.

(3) Save as provided in sub-section (2), all business of the Commission, shall, as far as possible, be transacted unanimously.

(4) Subject to the provisions of sub-section (3), if the State Chief Vigilance Commissioner and other Vigilance Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

(5) The State Chief Vigilance Commissioner, or, if for any reason, he is unable to attend any meeting of the Commission, the senior-most Vigilance Commissioner present at the meeting, shall preside over the meeting.

(6) No act or proceeding of the Commission shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of the Commission; or
- (b) any defect in the appointment of a person acting as the State Chief Vigilance Commissioner or as a Vigilance Commissioner;
- or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Vigilance
Commissioner to
as a State Chief
Vigilance
Commissioner in
certain
circumstances.

11. (1) In the event of the occurrence of any vacancy in the office of the State Chief Vigilance Commissioner by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Vigilance Commissioners to act as the State Chief Vigilance Commissioner, until the appointment of a new State Chief Vigilance Commissioner to fill such vacancy, is made.

(2). When the State Chief Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners, as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the State Chief Vigilance Commissioner until the date on which the State Chief Vigilance Commissioner resumes his duties.

Powers relating to
inquiries.

12. The Commission shall while conducting any inquiry referred to in clauses (c) and (d) of sub-section (1) of section 8, have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath ;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office
- (e) issuing commissions for the examination of witnesses or other documents; and
- (f) any other matter which may be prescribed

13. All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860, and the Commission shall be deemed to be a "Civil Court" for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

CHAPTER IV Expenses and Annual Report

14. The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the State Chief Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of the State.

Expenses of the Commission to be charged on the Consolidated Fund of the State.

15. (1) It shall be the duty of the Commission to present annually to the Governor a report as to the work done by the Commission within six months of the close of the year under report.

Annual Report

(2) The report referred to in sub-section (1), shall contain a separate part on the functioning of the Vigilance and Police Establishment insofar as it relates to the action with reference to the alleged offences under the Prevention of Corruption Act, 1988, or offences with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

(3) On receipt of such report the Governor shall cause the same to be laid before the House of the State Legislature.

(4) A copy of the report submitted to the Governor shall also be submitted to the Commission.

CHAPTER V

Miscellaneous

16. No suit, prosecution or other legal proceeding shall lie against the Commission, the State Chief Vigilance Commissioner, any Vigilance Commissioner, the Secretary or against any staff of the Commission in respect of anything, which is in good faith done or intended to be done under this Act.

Protection of actions taken in good faith.

17. The State Chief Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

State Chief Vigilance Commissioner, Vigilance Commissioners and staff to be public servants.

18. The Commission may call for reports, returns and statements from the State Government or corporations, established by or under any State Act. Government companies, societies and other local authorities, owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said corporations Government companies, societies and local authorities.

Power to call for information.

19. (1) The State Government in making any rules or regulations governing the vigilance or disciplinary matters relating to persons, appointed to public services and posts in connection with the affairs of the State, shall consult the Commission.

Consultation with the Commission in certain matters.

(2) The State Government shall while taking a decision with reference to its powers under section 25 or with regard to the action

to be taken against a public servant with reference to vigilance matters, shall consult the Commission.

Power to make rules.

20. (1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the number of members of the staff and their conditions of service under section 7;
- (b) any other matter required under clause (f) of section 12; and
- (c) any other matter which is required to be, or may be prescribed.

Power to make regulations.

21. (1) The Commission may, with the previous approval of the State Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-

- (a) the duties and the powers of the Secretary under sub-section (4) of section 3; and
- (b) the procedure to be followed by the Commission under sub-section (2) of Section 10.

Notification rule etc. to be laid before the Legislative Assembly

22. Every notification issued under clause (b) of sub-section (2) of section 8, and every rule made by the State Government, and every regulation made by the Commission under this Act, shall be laid, as soon as may be, after it is issued or made, before the House of the State Legislature, while it is in session, for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the notification or the rule or regulation, or the House agrees that the notification or the rule or regulation, as the case may be, should not be made, the notification or the rule or regulation shall thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the Validity of anything previously done under that notification or rule or regulation.

Power to remove difficulties.

23. (1) If any difficulty, arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before; the House of the State Legislature.

24. Notwithstanding anything contained in any other law for the time being in force,-

Appointments etc.
of officers of
Directorate of
Vigilance

(a) the State Government shall appoint the Chief Director of Vigilance for the State on the recommendation of the Committee consisting of

- | | |
|---|-------------|
| (i) the Chief Minister, Gujarat; | Chairperson |
| (ii) the State Chief Vigilance Commissioner; and | Member |
| (iii) the leader of opposition of Gujarat Vidhansabha | Member |
| (iv) the Chief Secretary to Government of Gujarat; | Member |

(b) while making a recommendation, the Committee shall take into consideration the integrity, conduct and experience of the officers eligible for appointment ;

(c) no person below the rank and scale of Director General of Police or Additional Director General of Police of the State shall be appointed as a Chief Director of Vigilance

(d) the Chief Director of Vigilance shall not be transferred before he has rendered Service as such for a minimum period of two years :

Provided that the Chief Director of Vigilance may be transferred before two years with the previous consent of the Committee referred to in clause (a);

(e) officers of the rank of Deputy Superintendent of Police and above, shall be appointed in the Vigilance Bureau on the recommendation of a Committee comprising of,—

- | | |
|--|-------------|
| (i) the State Chief Vigilance Commissioner; | Chairperson |
| (ii) the Chief Secretary to Government of Gujarat; and | Member |
| (iii) the leader of opposition of Gujarat Vidhansabha | Member |
| (iv) the Chief Director, Vigilance Bureau; | Member |

(f) on receipt of the recommendation made under clauses (a) and (e), the State Government shall pass such orders, as it thinks fit to give effect to the said recommendations.

25. (1) Notwithstanding anything contained in any other law for the time being in force, the Vigilance and Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988, or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial, except with the prior approval of the State Government where the allegation relates to,

Approval of the
State
Government to
conduct inquiry
or investigation.

- (a) Group 'A' officers of the State Government; and
- (b) such officers, as are appointed by the State Government in corporations, established by or under any State Act, Government companies, societies and local authorities, owned or controlled by that Government.

(2) Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for the cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than the legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act, 1988.

FORM

[See section 5(3)]

**Form of oath or affirmation to be made by the State Chief Vigilance
Commissioner or Vigilance Commissioner**

"I, _____, having been appointed the State Chief Vigilance Commissioner or Vigilance Commissioner of the Gujarat State Vigilance Commission, do Swear in the name of God that I will bear true faith and solemnly affirm

allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

STATEMENT OF OBJECTS AND REASONS

While there is a Central Vigilance Commission established under the Central Vigilance Commission Act, 2003 to inquire or cause to be inquired into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by the public servants of the Central Government, there is no such act in the State of Gujarat. The corruption among public servants has become a serious problem, which has adversely affected the public service delivery system and the same is required to be tackled more effectively. However, the State Government has already constituted the Gujarat State Vigilance Commission under the government resolution. In the absence of specific legislation, the present State Vigilance Commission is lacking statutory recognition. At the centre and in some other states, there are legislations for the efficient functioning of their Vigilance Commissions.

Therefore, In order to confer statutory status to the existing commission and to regulate its affairs in an efficient and transparent manner, It is, necessary to bring legislation for the State of Gujarat. The object of bringing legislation for the State Vigilance Commission is to set up an independent statutory body to exercise superintendence and control over the functioning of Vigilance and Police establishment in respect of investigation of offences under the Prevention of Corruption Act, 1988 more effectively.

Dated : 6th February, 2013.
Gandhinagar.

MAHAMADJAVID PIRZADA,
M.L.A.

FINANCIAL MEMORANDUM

The State Government proposes to constitute State Vigilance Commission on the pattern of Central Vigilance Commission. To achieve this object, Under the proposed law, there shall be one State Chief Vigilance Commissioner and two Vigilance Commissioners and other establishment to assist the State Vigilance Commission. As per tentative estimates, this will involve non-recurring expenditure of Rs. 50 Lacs (Rupees Fifty Lacs only) and recurring annual expenditure of Rs. Fifty Lacs from the consolidated fund of the state.

**Dated : 6th February, 2013.
Gandhinagar.**

**MAHAMADJAVID PIRZADA,
M.L.A.**

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clauses (2) and (5) of clause 3 empowers the State Govt. of appoint Chief Commissioner, Commissioners and Secretary respectively.

Clause 7 of the Bill empowers the State Govt. to make rules with respect to the number of members of the Staff and their service condition.

Clause 8 of the Bill empowers the State Govt. to specify level of officers of the Commission.

Clause 20 of the Bill empowers the State Govt. to make rules for carrying out the purposes of this Act.

Clause 24 empowers the State Govt. to appoint Director and Officers of the Directorate of Vigilance.

Dated : 6th February, 2013.
Gandhinagar.

MAHAMADJAVID PIRZADA,
M.L.A.

Gandhinagar
Dated the : 21st February, 2013.

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.



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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by Shri Balvantsinh Rajput M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 12 OF 2013.

THE GUJARAT EMPLOYMENT GUARANTEE Bill, 2013.

A BILL

to make effective provision for securing the right to work by guaranteeing employment to all persons who volunteer to do skill or unskilled work in the State of Gujarat.

It is hereby enacted in the Sixty Fourth year of the Republic of India as follows:-

- (1) This Act may be called the Gujarat Employment Guarantee Act, 2013.

Short title
extent and
commencement

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force from the 1st of April, 2010,

Definitions

2. In this Act, unless the context otherwise requires,—

- (a) "adult person" means a person who has attained the age of eighteen years;
- (b) "the Committee" means the District Employment Guarantee Committee constituted under section 5;
- (c) "the Controller" means the Controller of Unemployment appointed under section 6-;
- (d) "the Council" means the Gujarat State Employment Guarantee Council constituted under section 4;
- (e) "implementing agency" includes any department of the State Government, local body or the State Government undertaking which is entrusted by the State Government with the task of implementing any works taken up under the scheme.
- (f) "implementing officer" means the officer appointed by the implementing agency in consultation with the Controller to perform any of the powers or the duties of the implementing agency ;
- (g) "local areas" means the area falling within the jurisdiction of a local body;
- (h) "local body" means a municipal corporation, a municipality, a panchayat or a cantonment established under any law for the time being in force;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "scheme" means the Employment Guarantee Scheme prepared and published under section 7 for the time being in force.

Guarantee of employment to audit persons

3. Every adult person in the State of Gujarat shall have a right to work, that is, a right to get guaranteed employment for doing skilled or unskilled work, as the case may be, and to receive wages therefore in accordance with provisions of this Act and the scheme made thereunder.

Explanation.—A work shall be regarded as unskilled, if any adult person, without any special training, can normally be expected to do it and which, is so classified in the Scheme.

State Council and its functions

4. (1) For the purposes of having a periodical review and supervision of the implementation of this Act, there shall be a Council to be called the Gujarat State Employment Guarantee Council. The State Government shall appoint the Chairman and other members of the Council. The number of other members of the Council shall not exceed thirtyone, of whom at least, threemembers shall be appointed from members belonging to the Scheduled Castes, three members from the Scheduled Tribes and three members from women.

(2) The other function of the Council shall be to advise the State Government on all matters concerning this Act and the scheme and their implementation.

(3) The Council shall be competent to undertake an evaluation of the scheme and for this purpose collect or cause to be collected statistics pertaining to the economy of Gujarat in general and the socio-economic conditions of the people, and the implementation of the scheme in particular.

(4) It shall also be competent for the Council to recommend to the State Government the appointment of one or more Study Groups for undertaking a study of specific questions and problems connected with the implementation of this Act and the scheme.

(5) The Council shall co-ordinate the working of the district employment guarantee committees.

5. (1) The State Government shall constitute a District Employment Guarantee Committee in every district. Each Committee shall consist of *ex-officio* and nominated members by the State Government as under:—

Committees
and their
functions.

(A) *Ex-officio members*

- (i) A Commissioner of Municipal Corporation, if any, in the district;
- (ii) Presidents of municipalities in the district;
- (iii) President and Vice-President of the District Panchayat;
- (iv) Presidents of Taluka Panchayats in the district;
- (v) Collector of the district

(B) *Nominated members*

- (i) Three members to be nominated from persons associated with Small Scale Industries in the district;
- (ii) two members to be nominated who, in the opinion of the State Government are expert in industrial management;
- (iii) two members from the labour leaders;
- (iv) two members from any registered union of the agricultural labourers;
- (v) two members from Adivasis, if the area is predominantly the area of Adivasi;
- (vi) two members from the persons belonging to backward classes;
- (vii) two members from the women.

(2) The term of nominated members shall be of three years.

(3) The Chairman of every such Committee shall be appointed from the non-official members thereof.

(4) This Committee shall, within their respective jurisdiction supervise and review the implementation of the scheme from time to time and shall suggest to the State Government and the Council such steps as in their opinion, are necessary for the more effective implementation of this Act.

(5) The Committee shall co-ordinate the working of the implementing agencies in the district.

Controller of
employment
and his
functions.

6. (1) The Government shall appoint a Controller of Employment for every district.

(2) The Controller shall be responsible for the implementation of the provisions of this Act and for this purpose all other officers of the State Government and the local bodies in the district shall be responsible to the Controller;

Preparation
and
publication of
scheme

7. (1) For the purpose of giving effect to the Employment Guarantee scheme as mentioned in section 3, the State Government shall prepare and publish scheme for providing employment to all adult persons who volunteer to do skilled or unskilled work, subject to the conditions laid down by or under this Act in the scheme.

(2) Every Controller shall be asked to prepare blue print of the works to be taken up under the scheme in the district

(3) The Controller shall place the blue print for approval before the Committee which shall give its approval after taking into consideration the views of the implementing agencies in the district

(4) the scheme shall be prepared and published in such manner and contain such details as may be prescribed.

Registration.

8. The Controller shall constitute Registering Authorities in the district for registration of name and addresses of unemployed persons who volunteer to work. The places of registration of names shall be within the proximity of 10 kms. of every person. The registering authorities shall function in such manner as may be prescribed.

Conditions
applicable for
guaranteed
employment
to able
bodied
persons.

9. (1) Every unemployed adult person who is residing in any local area within the State and willing to do any skilled or unskilled work may get his name and address registered with an authority constituted under Section 8. The registering authority shall register the name and address of such persons after making such inquiry as it deems fit. The registration shall be for such period as may be fixed by the State Government and may be renewed from time to time. The registering authority, if satisfied, that any person has got himself registered by making a false declaration of his age, may after giving reasonable opportunity to the person concerned of being heard, delete his name from the register.

(2) Where there is no able bodied adult member in a family, a minor member of such family who has attained the age of 15 years shall be deemed to be an adult person for the purposes of this Act and shall be entitled to get registered his name and address with the registering authority and shall be entitled to get **work or unemployment allowance** in lieu thereof

Explanation.—For the purpose of this sub-section the expression 'family' means a husband, wife, father, mother, brother, sister, son and daughter residing together.

(3) Every registered person shall be entitled to be provided with employment within fifteen days from the date of registration. The employment to be provided shall be, as far as possible, within the local area in which he resides, and it shall be suitable to him looking to his educational qualifications, experience and physical condition.

(4) If within fifteen days from the date of registration of a person the State Government is unable to provide employment to him, he shall be entitled to receive from the Employment Guarantee Fund an unemployment allowance from the date of expiry of 15 days, at the rate of Rs. 45/- per day. The unemployment allowance shall be paid until any work is provided to him or till he refuses to do any work offered to him.

(5) The unemployment allowance to be paid to an unemployed person duly registered under sub-section (1) or (2) shall be sanctioned and paid by the authority empowered by the State Government in this behalf and for this purpose the State Government may prescribe such procedure as it deems fit.

(6) No person shall be entitled to any unemployment allowance under this Act if he does not accept employment provided to him or does not report for work within 7 days of being asked to do so or continuously remains absent from work without permission of the implementing officer for a continuous period of more than a week or remains absent from work for a total period of one week in any month.

10. (1) The State Government shall fix implementing agencies in every district in such manner as may be prescribed.

Implementa-
tion of the
scheme.

(2) The works sanctioned by the State Government under the scheme, prepared and published in accordance with section 7 for the district shall be distributed by the Controller among different implementing agencies in the district.

(3) Each implementing agency shall appoint implementing officers in consultation with the Controller for carrying out works entrusted to it and for performing such other functions as may be assigned to him by the implementing agency.

(4) The implementing officer shall, from time to time, obtain list of persons from the nearby registering authority for engaging them on the works to be carried out by the implementing agency.

(5) It shall be open for the implementing officer to direct, any unskilled person who volunteers for employment to do any type of manual work and to transfer him from one work to another.

Wages

11.(1) The wages shall be paid according to the schedule of rates as may be prescribed from time to time.

(2) The rate shall be directly linked with the quality and quantity of

work and as far as possible shall be equal to the rates of Wages given to similar workers in other industry or employment.

(3) For unskilled workers the rates shall be so fixed that a person working diligently for eight hours a day would normally get a total wage equal to the minimum wage prescribed, for agricultural labourer in the State, from time to time.

Penalty

12. Any person,—

(a) who is in employment but gets his name registered under subsection (1) or (2) of section 9 and draws unemployment allowance under subsection (4) of that section, or

(b) who is in receipt of unemployment allowance under subsection (4) of section 9 and accepts employment elsewhere but does not bring this fact to the notice of the registering authority concerned, and continues to draw unemployment allowance, shall on conviction, be punished with fine, upto twice the amount of unemployment allowance drawn in contravention of the provision of this Act.

Establishment of employment guarantee fund.

13. (1) On the date of commencement of this Act, the State Government shall constitute Fund to be called the Employment Guarantee Fund.

(2) There shall be credited in the Employment Guarantee Fund constituted under sub-section (1),—

(a) the entire amount of tax on professions, trades, callings and employments received during the previous financial year;

(b) any contributions or grants made by the State Government, Central Government or any local body;

(c) any sums received from other bodies or individuals whether incorporated or not.

(3) The amount standing to the credit of the Fund shall be expended in such manner and subject to such condition as may be prescribed for the purpose of implementing the scheme.

Delegation of powers.

14. The State Government may, by notification in the *Official Gazette*, direct that the powers exercisable by it under this Act except the power to make the scheme and the rules, shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by such, officer or officers subordinate to it as may be, specified in the notification.

15. (I) No suit, prosecution or other legal proceeding shall lie against the State Government or any authority or officer or body or person for anything which is in good faith done or omitted to be done in pursuance of this Act or the scheme or the rules made thereunder.

Protection of action taken in good faith.

16.(1) The State Government may, by notification, in the *Official Gazette*, make rules to carry out all or any of the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules, may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

STATEMENT OF OBJECTS AND REASONS

The Government of West Bengal and Kerala have enacted legislations entitling unemployed persons to get unemployment allowance. The Government of Maharashtra has also taken steps in this direction. Even countries like U.S.A. and Britain have made provisions for giving unemployment allowance to unemployed persons. In socialist countries, the right to work has been recognised as one of the Fundamental Rights. In our Constitution, under Article 41 it has been *inter alia*, directed to make effective provision for securing the right to work in cases of unemployment. In the preamble of the Constitution also the word "Socialist" has been given place. Even Sixty one years after Independence the army of unemployed skilled and unskilled persons is over increasing. This situation spreads unrest in the minds of unemployed person like fire, and also mars the development of a person.

It is now high time that in the interest of social justice, the Government should take some positive and effective steps immediately to end this monstrous situation of unemployment. It is the need of the hour that no person should remain without food at the end of the day. No ornamental schemes are going to pacify the hungry person.

The demand of the hour is "Give employment to all adult persons or if unable to give employment, give unemployment allowance". Hence this Bill.

Dated the 6th February, 2013

BALVANTSINH RAJPUT
M. L. A.

FINANCIAL MEMORANDUM

Clause 13.—Sub-clause (1) provides for establishment and maintenance of Employment Guarantee Fund

Sub-clause (2) provides for payment of an amount from the tax on professions, trades, callings and employments received during the previous financial year and any contribution or grants made by the State Government in the Employment Guarantee Fund.

These provisions involve expenditure from the Consolidated Fund of the State. As the exact involvement of the expenditure to be incurred by the State Government is difficult to assess, an estimate of recurring or nonrecurring expenditure is not possible.

Dated the 6th February, 2013

BALVANTSINH RAJPUT
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of powers of legislative nature in the following respects, namely:—

Clause 4.—Sub-clause (1) of this clause empowers the State Government to appoint Chairman and members of the State Employment Guarantee Council.

Clause 5.—Sub-clause (1) of this clause empowers the State Government to constitute a District Employment Guarantee Committee in every District.

Clause 6.—Sub-clause (1) of this clause empowers the State Government to appoint a Controller of Employment.

Clause 7.—(i) Sub-clause (1) of this clause empowers the State Government to prepare and publish a scheme providing employment to all adult persons;

(ii) Sub-clause (4) of this clause empowers the State Government to prescribe the manner in which the scheme shall be prepared;

Clause 8.—This clause empowers the State Government to prescribe the manners in which the Registering Authority shall function.

Sub-clause (5) of clause 9 empowers the State Government to prescribe the authority and the procedure for sanctioning and payment of unemployment allowance.

Clause 10.—Sub-clause (1) of this clause empowers the State Government to fix the implementing agencies and to prescribe the manner in which such agencies shall be fixed.

Clause 11.—Sub-clause (1) of this clause empowers the State Government to prescribe the rates of wages.

Clause 13.—Sub-clause (3) empowers the State Government to prescribe the manners and conditions which the amount standing to the credit of the fund shall be expended.

Clause 14.—This clause empowers the State Government to delegate its powers to the officers subordinate to it.

Clause 16.—This clause empowers the State Government to make rules to carry out the purposes of the Act.

The delegation of power as aforesaid is necessary and of normal character.

Dated the 6th February, 2013

BALVANTSINH RAJPUT

M.L.A.

Gandhinagar.

Dated 21st February, 2013

D. M. PATEL

secretary,

Gujarat Legislative Assembly



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PART V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which Was introduced on the 21st February, 2013 by Shri Balvantsinh Rajput M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

Gujarat Bill No : 13 Of 2013.

THE GUJARAT DOMESTIC WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) BILL, 2013

A BILL

to provide for working conditions of the domestic workers and welfare of such Persons and matters related therewith.

It is hereby enacted in the Sixty-Fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Gujarat Domestic Workers
(Regulations of Employment and Welfare) Act, 2013.
- (2) It shall extent to the whole of the state of the Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Short title
extent
and
Commence-
ment.

2. (1) 'domestic workers' means any person employed as domestic workers with household work such as cooking, house cleaning, washing clothes, maintaining of garden of the outskirt of the residential house and all other works incidental and connected with household affairs.

Definitions.

- (2) 'Competent Authority' means an officer of a local authority appointed under section 4.
- (3) 'Register' means Register of Domestic worker who are registered under this Act and their means are entered as such in the Register.
- (4) 'Prescribed' means prescribed by rules.

Registration of Domestic workers.

3. There shall be compulsory registration of domestic worker by the Competent Authority in the manner as may be prescribed by the State Government and no person shall employ any domestic worker whose name does not appear in the Register.

Competent Authority.

4. (1) The State Government shall appoint a competent Authority for carrying out the objects of this Act.

(2) It shall be the duty of Competent Authority to see that domestic workers are paid the wages as determined by the State Government by issuing notification according to the category of work, place of working, hours of work including weekly holidays and such other facilities as may be prescribed:-

Provided that the State Government may provide for different rates of wages for different areas and different category of works in the same city or a district.

Provided further that while determining the wages for domestic workers the State Government shall consult the Gujarat State Social Welfare Advisory Board and also the Gujarat State Women Economic Development Corporation.

5. No child who has not completed the age of fourteen years shall be employed or permitted to work as domestic worker and any breach shall be dealt with severely by the competent authority.

6. The competent authority may suo moto or on a complaint received by any domestic worker or any social organisation investigate whether there is any breach of the provisions of this Act and after due inquiry, in case of any breach may impose fine which shall not exceed rupees five thousand on the person under whose employment the domestic worker is employed.

**Non
compliance
amounting
to offence.**

7. The amount collected by way of fine shall be deposited in a fund to be known as Domestic Workers Welfare Fund and amount so deposited shall be utilised for the welfare of domestic worker in a manner as may be prescribed including for payment of compensation by the State Government.

**Domestic
Workers
Welfare
Fund.**

8. (1) The State Government may make rules for the purpose of carrying out the provisions of the Act.

**Power to
make rules.**

(2) All rules made under this act by the State Government shall be laid not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the state Legislature may make during the session in which they are so laid, or the session immediately following.

STATEMENT OF OBJECTS AND REASONS

It is observed that working conditions of the domestic worker is pitiable and primitive. Such persons are compelled to work for twelve hours a day without any rest. Moreover they are hardly paid adequate pay for their work. Their service is discharged without any notice or without giving any reason. No compensation is paid by their master after termination of their job. It is, therefore, considered necessary to protect their rights and also to provide for their registration, humanitarian conditions for working by providing adequate wages, fix working hours, regular health check up and compensation in case of termination of service.

The Bill seeks to achieve the aforesaid objects.

GANDHINAGAR.

Dated the 6th February, 2013

BALVANTSINH RAJPUT,

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The bill involves delegations of legislative powers in the following respects:-

Clause 3 of the Bill empowers the State Government to prescribe the manner of registration of domestic worker.

Clause 4 of the Bill empowers the State Government to prescribe the category of work, place of work, weekly holiday and other facilities.

Clause 7 of the Bill empowers the State Government to prescribe rules for the purpose of carrying out the objects of the Act.

The delegation of legislative powers as proposed is necessary and is of a normal character.

GANDHINAGAR.

Dated the 6th February, 2013

BALVANTSINH RAJPUT,

M. L. A.

GANDHINAGAR.

DATED 21ST FEBRUARY, 2013

D. M. PATEL,

secretary,
Gujarat Legislative Assembly.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill Which Was introduced on the 21st February, 2013 by Shri Balvantsinh Rajput M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

GUJARAT BILL NO. 14 OF 2013.

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2013.

A BILL

Further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Sixty-fourth year of the Republic of India, as follows:-

- | | | |
|----|--|--|
| 1. | (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2013. | Short title and commencement. |
| | (2) It shall come into force on such date as the State Government may, by notification in the official gazette, appoint. | |
| 2. | In the Gujarat Co-operative Societies Act, 1961, in section 74 B :- | Amendment of Section 74(B) of Guj.X of 1962. |
| | (1) in the marginal note, for the words "Schedule Castes and Tribes and small and marginal farmers" the words "Scheduled Castes, Tribes, small and marginal farmers and woman" shall be substituted. | |
| | (2) in sub-section (1)-- | |
| | (i) for the words "two seats shall be reserved" the words "three seats shall be reserved" shall be substituted; | |
| | (ii) after clause (b), the following new clause shall be inserted, namely :- | |
| | "(c) one for the woman" | |

Guj.X of
1962.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Co-operative Societies Act, 1961 has been enacted for the purpose of providing for the orderly development of the Co-operative movement in the State. Under Section 74-B of this Act, a provision has been made for the reservation of two seats on committees of certain Societies for Scheduled Castes, Scheduled Tribes and from persons who are small farmers and marginal farmers. But there is no provision for the reservation for the women on such committees. Since it is the adopted policy of the Government (both State & Central) to encourage women to take part in the various developmental activities, it is considered necessary to reserve one seat for the women on the Committees of the Co-operative Societies.

Hence this Bill.

Gandhinagar
Dated : 6th February, 2013.

BALVANTSINH RAJPUT
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves following proposal for delegation of Legislative Power.

Clause 1 : Under sub-clause (2) of this clause power has been given to the State Government to bring the Act into force on such date as the State Government may, by notification in the Official Gazette, appoint.

The above mentioned delegation of legislative power is of a normal character.

Gandhinagar
Dated : 6th February, 2013.

BALVANTSINH RAJPUT
M. L. A.

Gandhinagar
Dated the 21st February, 2013.

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill Which was introduced on the 21st February, 2013 by Shri Shambhuji Thakor M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL No. 15 OF 2013

A Bill

to provide for control of use of wrong Gujarati spellings by the public institutes in the State.

It is hereby enacted in the Sixty-fourth Year of Republic of India as follows:-

1 (1) This Act may be called as the Use of Correct Gujarati Spellings by Public Institutes Act, 2013.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires-

Definition.

(i) "Authorised Officer" means the Authorised Officer of the Gujarat Sahitya Parishad nominated by it for the purpose of this Act.

(ii) "Public Institute" means the offices of State Government, Local Authorities, Boards, Corporations and Companies owned or controlled by the State Government and includes the institutes taking any type of grant or financial assistance from the State Government.

Duty to use right Gujarati spelling.

3. It shall be the duty of every public Institute to use a right spelling of Gujarati language in its signboard, publications, instructions and advertisement.

Noticing
wrong
Gujarati
spelling.

4. Any person can draw attention of the responsible officer of the public institute to the fact that it has used particular wrong spelling in its signboards, publications, instructions or advertisement.

Correctio
n by the
public
institute.

5. On receipt of such intimation of wrong spelling used the responsible officer shall within a period of 15 days take action to correct the wrong spelling and intimate to the person of action taken.

Action on
failure to
correct
Gujarati
spelling.

6. (1) Where the responsible officer of the public institute has not taken any appropriate action for correcting the wrong spelling of Gujarati, the authorised officer of Gujarat Sahitya Parishad shall issue notice seeking explanation of the responsible officer of the said public institute and also direct him to correct the wrong spelling within a period of one month.

(2) Where the authorised officer of the Gujarat Sahitya Parishad does not receive any explanation from the said responsible officer of the public institute or it has not corrected the wrong spelling, issue an advertisement in a daily newspaper publishing the information about the wrong spelling used by such public institute and the correct spelling ought to be there.

(3) The cost of the advertisement issued under sub-section (2) above shall be borne by such public institute.

Authority
and
reference to
correct
Gujarati
spellings.

7. In deciding the true spelling of Gujarati word, the authorised officer of Gujarat Sahitya Parishad shall have access to the Sarth Jodani Kosh published by Gujarat Vidyapith, Ahmedabad from time to time.

Government
Grant to
Authority.

8. For the purpose of effective implementation of the provisions of this Act, State Government shall provide to the Gujarat Sahitya Parishad a recurring grant of such amount as may be decided by the State Government.

Powers to
give
directions.

9. The State Government may give directions to the Public Institutes or Authorised Officer for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

It is seen now a days that lots of people are writing wrong Gujarati spellings. This requires to be checked at least in offices of State Government, Local Authorities, Boards, Corporations and Companies owned and controlled by the State Government. The Gujarat Sahitya Parishad is also linked up in the provisions of the Bill. The authorised Officer of the said Parishad will be the implementing authority and deciding authority of the correctness of the Gujarati spellings. In deciding the correct spelling of the Gujarati word, the Sarth Jodani Kosh of the Gujarat Vidyapith shall be the final reference book. Such a provision will be in tune with Mahatma Gandhi's preference to Sarth Jodani Kosh. Hence this Bill,

GANDHINAGAR.Dated the 5th February, 2013**SHAMBHUJI THAKOR**

M. L. A.

FINANCIAL MEMORANDUM

The Bill provides for giving grant of the recurring nature to the Gujarat Sahitya Parishad for effectively carrying out the provisions of the Act. The amount of the grant shall be decided by the State Government and shall be paid out of the Consolidated Fund of the State, if the provisions of the Bill are brought into force.

GANDHINAGAR.Dated the 5th February, 2013**SHAMBHUJI THAKOR**

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in the following respect:-

Clause 9- of the Bill empowers the state government to give directions to the public institutes or authorized officer for carrying out of the purposes of implementation of this Act.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

GANDHINAGAR.Dated the 5th February, 2013**SHAMBHUJI THAKOR,**

M. L. A.

GANDHINAGAR.Dated the 21st February, 2013**D. M. PATEL,**

Secretary,

Gujarat Legislative Assembly.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

**THE GUJARAT PROFESSIONAL TECHNICAL
EDUCATIONAL COLLEGES OR INSTITUTIONS
(REGULATION OF ADMISSION AND FIXATION OF FEES)
(AMENDMENT) BILL, 2013.**

GUJARAT BILL NO. 16 OF 2013.

A BILL

*further to amend the Gujarat Professional Technical
Educational Colleges or Institutions (Regulation of Admission
and Fixation of Fees) Act, 2007.*

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Professional Technical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) (Amendment) Act, 2013. **Short title.**

Guj. 2 of 2008. 2. In the Gujarat Professional Technical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) Act, 2007 (hereinafter referred to as "the principal Act"), in section 2,- **Amendment of section 2 of Guj.2 of 2008.**

(i) in clause (g), after sub-clause (ii), the following sub-clause shall be inserted, namely:-

“(iii) all supernumerary seats of the professional courses in the Government colleges or institutions and in the aided and unaided colleges or institutions;”;

(ii) after clause (I), the following clause shall be inserted, namely:-

“(II) “supernumerary seats” means the seats which are termed as such by the AICTE or other statutory body and which are over and above the sanctioned intake of professional course;”.

**Amendment
of section 6 of
Guj.2 of 2008.**

3. In the principal Act, the existing section 6 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

“(2) Notwithstanding anything contained in sub-section (1), in the event of no student being available from the merit list or the seats declared as vacant by the Admission Committee, the Government may permit admission to such professional course in the manner as may be prescribed.”.

**Insertion of new
section 7A in
Guj.2 of 2008.**

4. In the principal Act, after section 7, the following section shall be inserted, namely:-

**Provisions
relating to
admission to
students from
other States.**

“7A. (1) Notwithstanding anything contained in this Act so far as admission to professional courses is concerned, students from other States may be given admission in the unaided colleges or institutions in such manner and on such number of seats of professional courses, as may be specified by an order published in the *Official Gazette*, by the State Government.

(2) For the purpose of giving admission to the students referred to in sub-section (1), the State Government may,-

- (a) specify the criteria on which the admission may be given, or
- (b) may direct to conduct the separate common entrance test, and to prepare the separate merit list on the basis of the same for such professional courses.”.

**Amendment
of section 10
of Guj.2 of
2008.**

5. In the principal Act, in section 10, in sub-section (1), the words “and for students from other States” shall be added at the end.

6. In the principal Act, after section 13, the following section shall be inserted, namely:-

Insertion of new
section 13A in
Guj.2 of 2008.

Exemption. “13A. The State Government may exempt from all or any of the provisions of this Act, by notification in the *Official Gazette*, such college or institution which may be declared as the Center of Excellence after following due procedure as may be laid down in the rules.”.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Professional Technical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) Act, 2007 was enacted with a view to provide a common framework for admission as well as fee fixation for professional colleges, as defined by AICTE, in the State. In view of the change in the situation of demand and supply of professional courses in the State, a need has arisen to make certain changes in this Act. This amendment Bill aims to do this. **Clauses 4 and 5** of the Bill makes enabling provision for the State Government to allow admission to students of other States in case if required. **Clauses 2 and 3** of the Bill aims certain provisions of the Act so as to remove any ambiguity of supernumerary and vacant seats. **Clause 6** of the Bill gives enabling provision to the State Government to exempt certain institutions which have achieved the level of Centre of Excellence from all or any of the provisions of the Act.

This Bill seeks to amend the Gujarat Professional Technical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) Act, 2007 to achieve the aforesaid objects.

BHUPENDRASINH CHUDASAMA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 3.- Sub-section (2) proposed to be inserted in section 6 by this clause empowers the State Government to prescribe by rules, the manner in which admission of students shall be permitted in such professional courses in the event of no student being available from the merit list or the seats declared as vacant by the Admission Committee.

Clause 4.- (i) New section 7A proposed to be inserted by this clause empowers the State Government to specify by an order, the manner in which and the number of seats of professional courses on which the admission to students from other States in the professional courses in the unaided colleges or institutions shall be given;

(ii) sub-clause (2) of this clause empowers the State Government to specify the criteria on which the students from other States may be given admission or may direct to conduct the separate common entrance test, and to prepare the separate merit list for such professional courses.

Clause 6.- New section 13A proposed to be inserted by this clause empowers the State Government, by notification in the *Official Gazette*, to exempt from all or any of the provisions of this Act such college or institution which may be declared under the rules as the Center of Excellence.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,

Dated the 27th February, 2013. **BHUPENDRASINH CHUDASAMA.**

By order and in the name of the Governor of Gujarat,

Gandhinagar.

Dated the 28th February, 2013.

C. J. GOTH,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART-V

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(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly

Rules :-

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 2013.

GUJARAT BILL NO. 17 OF 2013.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2013.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2013.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum five thousand seven hundred twenty-seven crores, sixty-six lakhs rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 2013, in respect of the services and purposes specified in column 2 of the Schedule.

Issue of
₹ 57,27,66,00,000
from and out of the
Consolidated Fund
of the State of
Gujarat for the
financial year
2012-2013.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appropriation.

SCHEDULE					
(See sections 2 and 3)					
Demand No. of Vote/ Appropri- ation	Services and Purposes	Revenue / Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			₹	₹	₹
1	2		3		
2	Agriculture	Revenue	3524363000	126000	3524489000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	15701000	0	15701000
5	Co-operation	Revenue	721799000	0	721799000
		Capital	34800000	0	34800000
6	Fisheries	Revenue	701892000	0	701892000
9	Education	Revenue	10759225000	153702000	10912927000
13	Energy Projects	Revenue	3060000000	0	3060000000
14	Other Expenditure pertaining to Energy and Petro-Chemicals Department	Capital	3000000000	0	3000000000
16	Tax Collection Charges (Finance Department)	Revenue	0	912000	912000
18	Pension and Other Retirement Benefits.	Revenue	3590175000	0	3590175000
20	Repayment of debt pertaining to Finance Department and its Servicing	Revenue	0	14000	14000
		Capital	0	856695000	856695000
22	Civil Supplies	Revenue	47130000	0	47130000
26	Forest	Revenue	15117000	695000	15812000
29	Governor	Revenue	0	10359000	10359000
30	Council of Ministers	Revenue	3129000	0	3129000

1	2		3		
31	Election	Revenue	351676000	0	351676000
33	General Administration Department	Revenue	110387000	0	110387000
34	Economic Advice and Statistics	Revenue	165967000	0	165967000
35	Other Expenditure pertaining to General Administration Department	Revenue	11820000	3848000	15668000
		Capital	7724000	0	7724000
39	Medical and Public Health	Revenue	3598906000	70000	3598976000
40	Family Welfare	Revenue	17884000	0	17884000
41	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	0	4000	4000
42	Home Department	Revenue	425000	0	425000
43	Police	Revenue	625659000	2819000	628478000
44	Jails	Revenue	114072000	0	114072000
46	Other Expenditure pertaining to Home Department	Revenue	120001000	2000	120003000
		Capital	720073000	0	720073000
48	Stationery and Printing	Revenue	18437000	0	18437000
49	Industries	Revenue	394000	0	394000
		Capital	1000	0	1000
50	Mines and Minerals	Revenue	9511000	0	9511000
51	Tourism	Capital	1200000000	0	1200000000
52	Other Expenditure pertaining to Industries and Mines Department	Capital	987500000	0	987500000
54	Information and Publicity	Revenue	18355000	0	18355000

1	2		3		
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	0	192000	192000
57	Labour and Employment	Revenue	20714000	0	20714000
60	Administration of Justice	Revenue	198465000	51317000	249782000
66	Irrigation and Soil Conservation	Revenue	0	8566000	8566000
		Capital	459942000	155220000	615162000
67	Water Supply	Capital	4000000000	0	4000000000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	0	370904000	370904000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	10000000	0	10000000
70	Community Development	Revenue	331592000	0	331592000
71	Rural Housing and Rural Development	Revenue	3463050000	250500000	3713550000
73	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	408600000	0	408600000
74	Transport	Revenue	991800000	0	991800000
75	Other Expenditure pertaining to Ports and Transport Department	Revenue	118951000	0	118951000

1	2		3		
82	Other Expenditure pertaining to Revenue Department	Revenue	4310000	0	4310000
83	Roads and Buildings Department	Revenue	16675000	0	16675000
84	Non-Residential Buildings	Revenue	807086000	5250000	812336000
85	Residential Buildings	Revenue	127706000	0	127706000
86	Roads and Bridges	Revenue	1392961000	23417000	1416378000
		Capital	2370956000	21513000	2392469000
87	Gujarat Capital Construction Scheme	Revenue	26603000	0	26603000
		Capital	1580000000	0	1580000000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	9290000	115045000	124335000
90	Other Expenditure pertaining to Science and Technology Department	Capital	297500000	0	297500000
92	Social Security and Welfare	Revenue	492880000	1250000	494130000
93	Welfare of Scheduled Tribes	Revenue	236228000	0	236228000
95	Scheduled Castes Sub Plan	Revenue	58764000	0	58764000
96	Tribal Area Sub-Plan	Revenue	2137168000	79518000	2216686000
		Capital	1297985000	14789000	1312774000
98	Youth Services and Cultural Activities	Revenue	6719000	0	6719000
101	Urban Housing	Revenue	0	48000000	48000000
102	Urban Development	Revenue	482437000	0	482437000
103	Compensation, Assignment and Tax Collection Charges	Revenue	200000000	0	200000000

1	2		3		
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	2000	750000	752000
107	Climate change Department	Revenue	616000	0	616000
	Total:	Revenue	39144642000	1127260000	40271902000
		Capital	15956481000	1048217000	17004698000
	Grand Total:		55101123000	2175477000	57276600000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 2013.

The amounts are shown below: - ₹

(a)	Revenue Expenditure	40,27,19,02,000
(b)	Capital Expenditure	17,00,46,98,000

Total ₹ :	<u>57,27,66,00,000</u>
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Gandhinagar,
Dated the 1st March, 2013.

NITIN PATEL.

By Order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 1st March, 2013

C. J. GOTH,
Secretary, to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY
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FRIDAY, MARCH 8, 2013/PHALGUNA 17, 1934

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly
Rules :-

THE GUJARAT ENTERTAINMENTS TAX (AMENDMENT)

BILL, 2013.

GUJARAT BILL NO. 18 OF 2013.

A BILL

to amend the Gujarat Entertainments Tax Act, 1977.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

- (1) This Act may be called the Gujarat Entertainments Tax (Amendment) Act, 2013. Short title and commencement.
- (2) It shall come into force on the 1st April, 2013.

Amendment of
section 6A of
Guj. 16 of 1977.

2. In the Gujarat Entertainments Tax Act, 1977, in section 6A, in sub-section (3)-, Guj. 16 of 1977.

- (1) for clause (a) and the provisos thereunder, the following clause and proviso shall be substituted, namely:-

“(a) Notwithstanding anything contained in clause (a) of sub-section (1) of section 3, every proprietor of an entertainment by video cinema having obtained the licence under the Gujarat Cinemas (Regulation) Act, 2004, shall have an option of payment of tax, subject to conditions specified herein below, at the rates specified in clause (d), to be exercised as provided in clause (b) within ninety days from the date of commencement of the Gujarat Entertainments Tax (Amendment) Act, 2013 and any person who becomes such proprietor thereafter may exercise such option within ninety days from the date on which he becomes such proprietor:

Guj. 21 of 2004.

Guj. ...of 2013.

Conditions:

- (1) The rate of admission into the place of entertainment shall not be more than rupees 30 per person,
- (2) There shall not be more than one screen in the place of entertainment,
- (3) The number of seats in the entertainment place shall not be more than 125,
- (4) The exhibition of films to the public in the place of entertainment can be done by using any kind of legitimate technology subject to full compliance of the provisions of the Cinematograph Act, 1952 and the rules made thereunder and the Copyright Act, 1957:

37 of 1952.

14 of 1957.

Provided that an application made under clause (b) may be entertained by the prescribed officer after the expiry of the period specified in this clause if the applicant satisfies the prescribed officer that he had sufficient cause for not making application within such period.”;

- (2) in clause (e), the proviso to sub-clause (i) shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The Finance Minister in his Budget Speech in the Gujarat Legislative Assembly on the 20th February, 2013 has proposed to impose certain conditions on the owners of the video cinema houses in order to have safeguards for availing the option of payment of *lump sum* tax by the proprietor to ensure that the facility of payment of *lump sum* tax is available only to the intended category of place of entertainment.

This Bill seeks to amend the Gujarat Entertainments Tax Act, 1977 with a view to giving effect to the proposal contained in the budget speech of the Finance Minister.

Gandhinagar,

PRADIPSINH JADEJA.

Dated the 7th March, 2013.

By Order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 8th March, 2013

C. J. GOTHI,

Secretary, to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT ELECTRICITY DUTY (AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 19 OF 2013.

A BILL

further to amend the Gujarat Electricity Duty Act, 1958.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Electricity Duty (Amendment) Act, 2013. Short title and commencement
- (2) It shall come into force on the 1st April, 2013.

Amendment
of section 2 of
Bom. XL of
1958.

2. In the Gujarat Electricity Duty Act, 1958 (hereinafter referred to as "the principal Act"), in section 2,-

Bom. XL of
1958.

- (1) for sub-clauses (bb) and (c), the following clauses shall be substituted, namely:-

"(bb) "industrial undertaking" means an undertaking engaged predominantly in-

- (i) the manufacture or production of goods, or
- (ii) any job work which results in the manufacture or production of goods,

but does not include an undertaking which manufactures or produces any kind of food or drinks or both meant ordinarily for consumption on the premises of the undertaking.

Explanation I.—"manufacture" with its grammatical variations means change in a non-living physical object or article or thing,-

(a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

Explanation II. -For the purpose of this clause, "premises of the undertaking" includes all premises which are intended for being used for consumption of food or drinks or both.

Explanation III.— For the purpose of this clause, an undertaking engaged in the manufacture or production of goods shall be deemed to be engaged predominantly in the manufacture or production of goods if the gross annual income of such undertaking from such manufacture or production for the accounting year of such undertaking preceding the period in respect of which the duty is levied is greater than the gross annual income of such undertaking for that accounting year from such manufacture or production of goods;

(c) "Licensee" means any person licensed under section 14 of the Electricity Act, 2003 and includes any person who is supplying energy generated by himself;";

36 of 2003.

(2) in clause (cc), the word "office" shall be deleted;

(3) sub-clause (ee) shall be deleted.

3. In the principal Act, in section 3, in sub-section (2),-

Amendment
of section 3
of Bom.XL
of 1958.

(1) in clause (ia), after the words "in the State", the words "including any body corporate constituted by the State Government or the Central Government as the State Government may, by general or special order, specify," shall be inserted;

(2) in clause (v-a), the words "by any person" shall be deleted;

(3) after clause (vii) and *Explanation* thereunder, the following clause and *Explanation* shall be added, namely:-

"(viii) for motive power and lighting in respect of premises used by an additional unit of the industrial undertaking for industrial purpose at different independent and identifiable premises of the existing premises of the industrial undertaking, subject to such terms and conditions, as may be prescribed, for a period of five years from the date -

(a) on which such additional unit of the industrial undertaking begins to manufacture or produce goods for the first time; or

(b) on which such additional unit of the industrial undertaking has begun to manufacture or produce goods for the first time, prior to commencement of the Gujarat Electricity Duty (Amendment) Act, 2013:

Guj..... of
2013.

Provided that no additional unit of the industrial undertaking shall be entitled for exemption from payment of electricity duty under this clause, unless it has obtained a certificate regarding eligibility for such exemption in the prescribed form by making an application in such form, within such period and to such officer as may be prescribed.

Explanation.- For the purpose of this clause "additional unit of the industrial undertaking" means any industrial undertaking which-

(a) is not formed by the splitting up or the reconstruction of a business or undertaking already in existence in the State; or

(b) is not formed by transfer to a new business or undertaking of a building, machinery or plant previously used in India for any industrial purpose, of such value in relation to total value of the aforesaid investments, as the State Government may, by notification in the *Official Gazette*, specify."

Amendment
of section 12
of Bom.XL of
1958.

4. In the principal Act, in section 12, in sub-section (2),-

(i) for clause (a-2), the following clause shall be substituted, namely:-

“(a-2) prescribe the terms and conditions subject to which the new industrial undertaking under clause (vii) and the additional unit of the industrial undertaking under clause (viii) of sub-section (2) of section 3 shall be entitled for exemption from payment of electricity duty;”;

(ii) in clause (a-1), after the word, brackets and letters “clause (vii)”, the words, brackets and letters “and clause (viii)” shall be inserted.

Amendment
of Schedule
I to Bom.
XL of 1958.

5. In the principal Act, in Schedule I, -

(1) for the existing PART I, the following shall be substituted, namely:-

“PART I		
(1)	For energy consumed by a consumer in respect premises used for residential and educational purposes-	
	(a) in rural areas;	7.50 per cent. of consumption charges.
	(b) in urban areas.	15 per cent. of consumption charges.
<p>Explanation.—“Educational purpose” means the purpose of imparting education by an approved school as defined in clause (2) of section 2 of the Gujarat Primary Education Act, 1947, a recognised school or a registered school as defined in clause (g) or, as the case may be, clause (s) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972 or a University established by a law for the time being in force in the State, or a College affiliated to, or an institution recognised or approved by, such University.</p>		
(2)	For energy consumed by Hostels for students-	
	(a) in rural areas;	7.50 per cent. of consumption charges.
	(b) in urban areas.	11.25 per cent. of consumption charges.
(3)	For energy consumed by an industrial undertaking, other than energy consumed in respect of any of its premises used for residential purposes-	
	(a) where an industrial undertaking consumes high tension energy;	15 per cent. of consumption charges.

Bom.LXI of
1947.

Guj.18 of
1973.

	(b) where an industrial undertaking consumes exclusively low tension energy.	10 per cent. of consumption charges.
Explanation I.- Any energy consumed by an industrial undertaking for installation of any additional plants, machineries and equipments of such industrial undertaking shall be construed as energy consumed by such industrial undertaking.		
Explanation II.- For the purpose of this item- (a) "high tension energy" means any energy supplied, the voltage of which exceeds 650 volts under normal conditions; (b) "low tension energy" means any energy supplied, the voltage of which does not exceed 650 voltage under normal conditions.		
(4)	For energy consumed in respect of any premises not falling under any of the items (1), (2) and (3) above.	25 per cent. of consumption charges.
Explanation.- For the purposes of this PART, the expression "consumption charges" means the charges payable by a consumer to a licensee but shall not include any of the following charges, namely:- (i) Meter charges; (ii) Interest on delayed payment; (iii) Fuse-off call charges and reconnection charges; (iv) the losses of energy sustained in transmission or transformation by a licensee or person before supply to a consumer: Provided that- (a) where no energy has been consumed by a consumer, minimum charges payable by him shall not be deemed to be consumption charges; (b) where the units of energy actually consumed by a consumer are less than the units of energy for which, prescribed minimum charges are payable "consumption charges" shall, in the case of such consumer, mean the charges for the units of energy actually consumed by him and not the prescribed minimum charges; (c) where any person supplies electrical energy to any other person (hereinafter referred to as "the receiving person"), the charges payable by the receiving person for such quantum of power to the distribution licensee under section 14, who is engaged in the business of supplying energy within the area where the receiving person is located, shall be deemed to be consumption charges for such supply of energy.";		

(2) in PART II, in clause (i), for the words "service undertaking", the words "additional unit of the industrial undertaking" shall be substituted.

6. In the principal Act, in Schedule II,-

(1) for the existing PART I, the following shall be substituted, namely:-

Amendment
of Schedule II
to Bom. XL
of 1951.

"PART I		
(1)	For energy consumed by a consumer in respect premises used for residential and educational purposes-	
	(a) in rural areas;	10 paise per unit ;
	(b) in urban areas.	20 paise per unit.
Explanation: "Educational purpose" means the purpose of imparting education by an approved school as defined in clause (2) of section 2 of the Gujarat Primary Education Act, 1947, a recognised school or a registered school as defined in clause (q) or, as the case may be, clause (s) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972 or a University established by a law for the time being in force in the State, or a College affiliated to, or an institution recognised or approved by, such University.		
(2)	For energy consumed for the use of- (a) (i) hall or (ii) auditorium used for commercial purpose or let out for any purpose, or (b) (i) cinema house or (ii) theatre.	25 paise per unit;
(3)	For energy consumed by hotels including residential hotels, restaurants, eating houses and lodging and boarding houses.	30 paise per unit.
(4)	For energy consumed by an industrial undertaking other than energy consumed in respect of any of its premises used for residential purposes.	55 paise per unit.
Explanation.- Any energy consumed by the industrial undertaking for installation of additional plants, machineries and equipment of such industrial undertaking shall be construed as energy consumed by the industrial undertaking.		
(5)	For energy consumed in respect of any premises not falling under any of the items (1) to (4) above.	40 paise per unit.
Explanation.- For the purposes of this PART, in determining the units of energy consumed, the losses of energy sustained in transmission or transformation by a licensee or any person who generates energy, before supply to a consumer, shall be excluded."		

Bom.LXI of
1947.

Guj.18 of
1973.

(2) in PART II, in clause (i), for the words "service undertaking", the words "additional unit of the industrial undertaking" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Electricity Duty Act, 1958 (Bom. XL of 1958) with a view to giving effect to the budget proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 20th February, 2013 of increasing the present rate of Electricity Duty by 15 paise per unit in respect of self-generation of electricity by industrial undertaking.

Further the Bill, besides the proposal contained in the budget speech, provides for, among other, duties payable on consumption of electrical energy by the service undertakings. However, the Gujarat Electricity Regulatory Commission in its tariff order dated the 6th September, 2011 has held that there are only two categories of consumers *i.e.* residential and non-residential. In view of this, it is considered necessary to remove the provisions relating to service undertakings from the Act.

It is also considered necessary to exempt from levy of electricity duty in respect of additional units of the industrial undertaking for motive power and lighting in respect of premises used by such industrial undertaking for industrial purpose at different independent and identifiable premises of the existing premises of the industrial undertaking for a period of five years from the date it begins to manufacture or produce goods for the first time; or it has begun to manufacture or produce goods for the first time prior to commencement of this amendment Act of 2013.

It is also considered necessary to encourage non-conventional generation of electricity and therefore the provision is amended so as to exempt from electricity duty in respect of those who consume non-conventional energy.

The term "industrial undertaking" is amended so as to explain the term "manufacture". It is also considered necessary to empowering the State Government for not levying any duty in respect of Boards or Corporations owned or controlled either by the Central Government or by the State Government for the purpose of public water works and sewage works. It is also considered necessary to merge different categories having same rates of electricity duty into a single category and therefore both the Schedules to the Act are suitably amended.

This Bill seeks to amend the said Act of 1958 to achieve the aforesaid objects.

SAURABH PATEL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely:-

Clause 3.— (i) New clause (viii) proposed to be inserted in sub-section (2) of section 3 by this clause empowers the State Government to prescribe by rules, the terms on which and the conditions subject to which electricity duty shall not be leviable on the units of energy consumed for motive power and lighting in respect of premises used by an additional unit of the industrial undertaking for industrial purpose at different independent and identifiable premises of the existing premises of the industrial undertaking for a period of five years;

(ii) proviso to new clause (viii) proposed to be inserted in sub-section (2) of section 3 by this clause empowers the State Government to prescribe by rules, the form in which, the period within which and the officer to whom the application shall be made by the additional unit of the industrial undertaking, for obtaining the certificate regarding eligibility for exemption from payment of electricity duty;

(iii) *Explanation* after new clause (viii) proposed to be inserted in sub-section (2) of section 3 by this clause empowers the State Government to specify by notification in the *Official Gazette*, the value in relation to total value of a new business or undertaking, of a building, machinery or plant previously used in India for any industrial purpose.

Clause 4.— Clause (a-2) of sub-section (2) of section 12 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the terms on which and the conditions subject to which a new industrial undertaking and the additional unit of the industrial undertaking shall be entitled for exemption from payment of electricity duty.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 12th March, 2013.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 13th March, 2013.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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The Gujarat Government Gazette

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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT VALUE ADDED TAX (AMENDMENT)

BILL, 2013.

GUJARAT BILL NO. 20 OF 2013.

A BILL

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

- (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2013. **Short title and commencement.**
- (2) It shall come into force on the 1st April, 2013.

**Amendment
of section 7 of
Guj.1 of 2005.**

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in section 7, in sub-section (1A), in clause (i), after the words "serial numbers", the figures and letter "19A," shall be inserted. **Guj.1 of 2005.**

**Amendment of
section 9 of
Guj.1 of 2005.**

3. In the principal Act, in section 9, in sub-section (6), in clause (i), after the words "serial numbers", the figures and letter "19A," shall be inserted.

**Amendment of
section 11 of
Guj. 1 of 2005.**

4. In the principal Act, in section 11, after sub-section (7), the following sub-section shall be inserted, namely:-

"(7A) Notwithstanding anything contained in this section, in no case the amount of tax credit on any purchase of goods shall exceed the amount of tax in respect of the same goods, actually paid, if any, under this Act or any earlier law, into Government treasury:

Provided that, where purchase tax is shown as payable in the return by the claimant dealer on the purchase of the said goods effected by him, it shall be deemed to have been paid into Government treasury for the purpose of this sub-section:

Provided further that, where the tax levied or leviable under this Act or any earlier law is remitted or to be remitted or, deferred or is deferrable under any tax incentive scheme granted by the Government of Gujarat, then the tax shall be deemed to have been paid into the Government treasury for the purpose of this sub-section."

**Amendment of
section 14 of
Guj.1 of 2005.**

5. In the principal Act, in section 14, in sub-section (1),-

- (i) in clause (a), for the words "fifty lakhs", the words "seventy-five lakhs" shall be substituted;
- (ii) in clause (b), for the words "fifty lakhs", occurring at two places, the words "seventy-five lakhs" shall be substituted.

**Amendment of
section 34 of
Guj.1 of 2005.**

6. In the principal Act, in section 34, after sub-section (8), the following sub-section shall be inserted, namely:-

"(8A)(a) During the course of any proceedings under this Act, if the prescribed authority is satisfied that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess tax credit has been claimed by any dealer in respect of any period or periods by not recording or recording in an incorrect manner, any transaction of sale or purchase, or that any claim has been incorrectly made, then in such a case notwithstanding any notice for assessment has been issued under

other provisions of this section or any other section of this Act, the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, initiate assessment of the dealer in respect of such transaction or claim:

Provided that where such proceedings are under section 73 or section 75, the prescribed authority shall transfer the proceedings relating to such transaction or claim directing the concerned assessing authority to assess the dealer in respect of such transaction or claim:

Provided further that the prescribed authority shall, notwithstanding anything contained in section 17, be deemed to have the requisite jurisdiction and power to assess such dealer in respect of such transaction of sale or purchase or claim, covered by clause (a) and such assessment proceedings shall, for all purposes of this Act, be deemed to have been transferred to such authority.

(b) The assessment proceedings under this sub-section shall be without prejudice to the assessment proceedings in respect of the said period or periods under any other provisions of this Act by any authority who otherwise has the jurisdiction to assess such dealer in respect of other transactions of sale or purchase or any other claim.

(c) The assessment under this sub-section shall be made separately in respect of the transaction or claim relating to the said period or periods to the best of the judgment of the prescribed authority where necessary and irrespective of any assessment made under this sub-section, the dealer may be assessed separately under the other provisions of this section in respect of the said period or periods:

Provided that, once the dealer is assessed under this sub-section, no tax from such transaction or claim and penalty and interest, if any, shall be levied or demanded from such dealer, at the time of assessment to tax under the other provisions of this section in respect of the said period or periods relating to such transaction or claim.

Explanation.- For the purpose of this sub-section, "prescribed authority", "the said authority", "such authority" and "any authority" shall mean, the Commissioner or, as the case may be, the authorities appointed under section 16 and other officers or persons to whom the Commissioner has delegated his power in this behalf.

**Amendment
of Schedule II
to Guj.1 of
2005.**

7. In the principal Act, in Schedule II, -

(1) after the entry at serial No. 19, the following entry shall be inserted, namely:-

1	2	3
"19A	Cigarette made from tobacco.	Twenty-seven and a half paise in the rupee";

(2) in the entry at serial No. 41, after the word "DEPB", the words "carbon credit" shall be added;

(3) in the entry at serial No. 76A, the word "cigarette" shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The Finance Minister in his Budget Speech on 20th February, 2013 in the Legislative Assembly for the year 2013-2014 had proposed to raise the limit of turnover for payment of *lumpsum* tax from rupees fifty lakhs to rupees seventy-five lakhs as also to reduce the rate of tax on use of carbon credit and in the case of tax on cigarette made from tobacco had proposed to increase the rate of tax. In order to giving effect to the said proposal, the relevant provisions of the Gujarat Value Added Tax Act, 2003 are proposed to be amended.

An opportunity is taken to amend certain other provisions of the Act so as to remove the difficulties which have arisen during the administration of the Act. For this purpose, **Clause 4** of the Bill seeks to insert new sub-section (7A) in section 11 so as to provide to restrict the amount of tax credit on any purchase of goods to the extent of the amount of tax in respect of the same good, actually paid, if any, under this Act, into Government treasury. **Clause 6** of the Bill seeks to insert new sub-section (8A) in section 34 so as to provide to assess the dealer separately in respect of any period for certain transactions or claim not recorded or recorded in an incorrect manner to evade the tax.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

Gandhinagar,

NITIN PATEL.

Dated the 14th March, 2013.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

C. J. GOTHI.

Dated the 15th March, 2013.

Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
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THURSDAY, MARCH 21, 2013/PHALGUNA 30, 1934

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT FIRE PREVENTION AND LIFE SAFETY MEASURES BILL, 2013.

GUJARAT BILL NO. 21 OF 2013.

A BILL

to make effective provisions for the fire prevention, safety and protection of life and property, in various types of buildings and temporary structures or shamiyana or tents or mandap likely to cause a risk of fire in different areas in the State of Gujarat and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to make effective provisions for the fire prevention, safety and protection of life and property in various types of buildings and temporary structures or *shamiyana* or *tents* or *mandap* likely to cause a risk of fire, in different areas in the State of Gujarat, fire service fee, constitution of a special fund and for the purposes connected therewith or incidental thereto;

It is hereby enacted in the Sixty-Fourth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Gujarat Fire Prevention and Life Safety Measures Act, 2013.

Deginations.

(2) It extends to whole of the State of Gujarat.

(3) It shall come into force in any area on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different areas and for different provisions of the Act.

2. (1) In this Act, unless the context otherwise requires, —

(a) “**building**” shall have the meaning assigned to it in the GDCR or relevant law or any law for the time being in force in the area in which this Act is in force; and includes places or premises comprising land or building, or part of a land or building, outhouses, if any, appertaining to such building or part thereof and petrol, diesel or gas lines, communication lines, power installations or pumps, whether authorized or otherwise;

(b) “**building bye-laws**” means the building bye-laws, rules or regulations made under any relevant law and includes GDCR or regulations, by whatever name they are called, or any other building rules or regulations made under any other law for the time being in force and are in operation in the area in which this Act is in force;

(c) “**Chief Fire Officer**” means a person as classified under section 10;

(d) “**Commissioner**” shall have the meaning assigned to it in clause (9) of section 2 of the Gujarat Provincial Municipal Corporations Act, 1949; Bom. LIX of 1949.

(e) “**Director**” means a person appointed under section 6;

(f) “**disaster**” shall have the meaning assigned to it in clause (h) of section 2 of Gujarat State Disaster Management Act, 2003; Guj. 20 of 2003.

(g) “**emergency services**” means services required to be rendered in case of manmade or natural disaster or any eventuality where the life is at risk;

(h) “**erector**” means a person or an association of persons, whether corporate or otherwise, who erects or makes *shamiyana* or *tents* or *mandap* or any structure for occupation of people on a regular or temporary basis;

- (i) **"fees"** means fees levied under section 30;
- (j) **"fire division"** means a territory of State comprising such number of fire sub-divisions as may be prescribed; and declared generally or specially by the State Government to be a fire division for the purpose of this Act;
- (k) **"fire prevention and life safety measures"** means such measures as are necessary in accordance with the building bye-laws or as required by or under the provisions of any law or the National Building Code of India, for the time being in force, for the prevention, control and fighting of fire and for ensuring the safety of life and property in case of fire;
- (l) **"fire region"** means territory comprising such number of fire divisions as may be prescribed and declared generally or specially by the State Government to be a fire region for the purpose of this Act;
- (m) **"fire safety officer"** means a person appointed under section 12 of this Act as the Fire Safety Officer by the owners and occupiers of certain premises and buildings as specified in this behalf to ensure fire prevention and fire safety measures installed in such premises and buildings;
- (n) **"Fund"** means fund constituted under section 32;
- (o) **"GDCR"** means the General Development Control Regulations made under clause (m) of sub-section (2) of section 12 of Gujarat Town Planning and Urban Development Act, 1976; President's Act No. 27 of 1976.
- (p) **"Licensed Agency"** means a person or an association of persons licensed under sub-section (1) of section 28;
- (q) **"Housing Society"** includes all registered residential and non-residential or mixed housing societies, association of owners or co-owners of flat occupancy, building premises and associations of owners as defined under the Gujarat Ownership of Flats Act, 1973; Guj. 13 of 1973.
- (r) **"local authority"** means a municipal corporation, nagar panchayat, municipality, district panchayat, taluka panchayat, gram panchayat, notified area committee or cantonment board constituted under relevant local authority law;

- (s) **"Local Fire service"** means the local fire service as may be notified by the State Government under section 3.
- (t) **"National Building Code of India"** means the book or books containing Fire Prevention and Life Safety Measures to be implemented in the buildings, places, premises, workshops, warehouses and industries, published from time to time by the Bureau of Indian Standards;
- (u) **"nominated officer"** means an officer possessing the prescribed qualifications and nominated by the Director or the Regional Fire Officer or the Chief Fire Officer to perform duties and functions laid down under this Act;
- (v) **"occupancy"** means the principal occupancy for which a building or a part of a building is used or intended to be used including subsidiary occupancies which are contingent upon it; President Act No. 27 of 1976.
- (w) **"occupier"** shall have the meaning assigned to it in clause (xvi) of section 2 of the Gujarat Town Planning and Urban Development Act, 1976;
- (x) **"owner"** shall have the meaning assigned to it in clause (xvii) of section 2 of the Gujarat Town Planning and Urban Development Act, 1976 and shall also include the housing society; President Act No. 27 of 1976.
- (y) **"premises"** means any land or any building or part of a building and includes the garden ground and outhouse, if any, appertaining building or part of a building; and any land or any building or part of a building appurtenant thereto which is used for storing explosives explosive substance and dangerously inflammable substance;
- (z) **"prescribed"** means prescribed by rules made under section 57;
- (za) **"Regional Fire Officer"** means a person appointed under section 8;
- (zb) **"regulations"** means regulations made by the Director under section 58;
- (zc) **"shamiyana or tents or mandap"** means a temporary structure with roof or walls made of straw, hay, ulu grass, golpatta, hogla, darma, mat, canvas, cloth or other like material which is not adopted for permanent or continuous occupancy.

President
Act No. 27
of 1976.

Guj. 20 of
2003.

(2) Words and expressions used in this Act but not defined shall have the meaning assigned to them in the Gujarat Town Planning and Urban Development Act, 1976 or the Gujarat State Disaster Management Act, 2003 or any other law relating to local authorities, as the case may be, and the rules made thereunder.

CHAPTER II

ORGANIZATION, SUPERINTENDENCE, CONTROL AND MAINTAINANCE OF FIRE SERVICE

3. (1) There shall be one State fire service for the whole of the State and all officers and subordinate ranks of the fire service shall be liable for the posting to any office of the fire service:

One fire service
for whole of
State.

Provided that, the State Government may, by notification in the *Official Gazette*, declare any Fire Brigade or any other Local Fire Service of any local authority of the State, by whatever name called, that the same shall form or shall not form the part of State Fire Service at any time:

Provided further that, this provision shall not apply to the private fire services maintained for providing fire protection coverage to specific building or industry by the owner or occupier thereof.

(2) Notwithstanding anything contained in this Act or any other law for the time being in force relating to the local authorities, the State Government may, by notification in the *Official Gazette*, declare the services relating to any fire brigade or fire prevention a part of State Fire Service with effect from such date as may be specified in the notification.

(3) Upon such declaration under sub-section (2),-

- (i) the officers and employees responsible for providing the fire services in the areas of such local authority, shall be deemed to have been absorbed in the State Fire Service, subject to such terms and conditions as may be notified;
- (ii) terms and conditions applicable to the employees after such absorption shall be such as may be decided by the State Government,
- (iii) all proceeding pending before any fire officer, immediately before the declaration, be deemed to be proceeding pending before him in his capacity as the holder of the office to which he is deemed to be appointed under sub-clause (2),

- (iv) all assets, rights and liabilities relating to the fire services of such local authorities shall stand transferred to the State Fire Service, subject to such terms and conditions as the State Government may deem fit,
- (v) the State Government may take such necessary actions as it deems fit.

Superintendence
of Fire Service
to vest in State.

4. The superintendence of, and control over, the Fire Service throughout the State shall vest in the State Government and the Fire Service shall be administered by the State Government in accordance with the provisions of this Act and of any rules made thereunder through such fire officers as the State Government may, from time to time, appoint in this behalf.

Constitution and
classification of
Fire Service.

5. (1) Subject to the provisions of this Act, the State fire service shall consist of such number of staff in several ranks and have such organisation and have such powers, functions and duties as the State Government may, by general or special order, determine.

(2) The State Government may prescribe by rules, -

- (a) the different posts of the State Fire Service;
- (b) the mode of recruitment of staff, grade of post, the qualification, pay, allowances and other conditions of service of the officers and other staff engaged therein and matters connected therewith;

(3) The State Government may, by notification in the *Official Gazette*, review the existing pattern of the existing different fire services in the State and if deem fit may modify:

Provided that, for local fire services the rules framed in under this subsection may not include mode of recruitment of staff, pay, allowances and matters connected therewith.

(4) Save as otherwise provided by or under this Act, every person holding office either as a Chief Fire Officer or Fire Officer or staff or an employee (by whatever designation called) on an existing Fire Brigade or Fire Service of any authority on the date immediately before the commencement of this Act shall continue to hold office on the same terms and conditions as were applicable to him immediately before such date and shall exercise such powers and perform such duties as before and in addition to those as are conferred on them by or under this Act.

Appointment
of Director.

6. (1) The State Government shall appoint a person to be the Director and such other officers and staff as may be necessary from time to time to assist the Director while exercising the powers or discharging the duties or functions conferred under this Act or the rules made thereunder.

(2) The jurisdiction of the Director so appointed shall extend to the entire State in matters relating to fire services.

(3) Subject to the control, directions and superintendence of the State Government, the Director shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or the rules made thereunder.

7. (1) Without prejudice to the provisions of sub-section (3) of section 6, the Director shall, - Powers, duties and functions of Director.

- (i) function as the Head of Department in the office of the Director;
- (ii) subject to the rules made in this behalf, the Director may appoint subordinate staff only on the recommendations of the Gujarat State Subordinate Services Selection Board on such terms and conditions of salaries and allowances as may be fixed by the State Government;
- (iii) keep liaison with the Central Government and the State Government offices for the development of fire services;
- (iv) frame the policies in relation to the development of fire services in the State and, on approval by the State Government, take steps to implement the same;
- (v) exercise superintendence and control over all authorities in the matters relating to fire prevention and fire safety measures; and subject to the approval of the State Government, issue such directions to any authority in respect of fire services maintained or required to be maintained by them;
- (vi) represent the State Government on National and International forums with a view to updating the standard of fire services in the State;
- (vii) prepare and submit plans and proposals to the State Government with regard to the periodical review of fire equipment, fire property and fire manpower for effective implementation of fire services by the authorities;
- (viii) take or cause to be taken such effective steps and measures in cases of major fires, house collapse and other emergency services;
- (ix) investigate or cause to be investigated the cause of fire and advise the authorities for implementing fire precautionary measures;

- (x) advise the State Government to set up additional Fire Training Centre or Centres for imparting training to the officers and staff of local authorities so as also to cater to the need of the various factories, commercial and mercantile establishments in the private sector and to implant training to officers and the staff or to provide them the trained and qualified fire service personnel;
 - (xi) requisite fire-fighting equipment of any authority or any institution or individual, which in his opinion is required for the purpose of extinguishing fire in any area ; and to determine the amount of compensation payable in respect of such equipment of in the area of which authority, such fire operation is required to be carried out;
 - (xii) exercise such other powers and perform such other duties and functions as may be conferred, imposed or allotted to him by or under the provisions of this Act.
- (2) The Director, with the approval of the State Government, direct and regulate all matters of firefighting equipment, machinery and appliances, training, observation of persons and events mutual relations, distribution of duties, study of laws, orders and modes of proceedings and all matters of executive detail or the fulfillment of duties and maintenance of discipline of fire officers and members of the Fire Service under him.
- (3) The Director shall appoint such number of officers and employees as may be necessary to assist any Fire Officer of the State Fire Services, while exercising his powers or discharging his duties or functions under this Act or the rules made thereunder.
- (4) When the Director is informed, on a complaint made or otherwise that default has been made in the performance of any duty imposed on an authority by or under this Act or by or under any enactment in relation to firefighting measures or operations for the time being in force, the Director, if satisfied after due inquiry, that the alleged default has been made, may, by order, fix a period for the performance of that duty and communicate such order to the authority.
- (5) If the duty is not performed within the period so fixed, the Director may appoint such other person to perform it, and may direct that the expenses of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the person or the authority, as the case may be.
- (6) If the expense and remuneration are not so paid, the Director may make an order directing the bank in which any moneys of the person or the authority are deposited or the person in-charge of the local Government Treasury or of any other place of security in which the **moneys** of the authority are deposited, to pay such expenses and remuneration from such

moneys as may be standing to the credit of the authority in such bank or may be in the hands of such person or as may, from time to time, be received from or on behalf of the authority by way of deposit by such bank or person, and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the authority in respect of any sum or sums so paid by it or him out of the moneys of the authority so deposited with such bank or person.

(7) The Director or any Fire Officer, authorised by general or special order in this behalf, may, for the purpose of discharging his duties under this Act, require the owner or occupier of any building or other property as may be specified to supply information with respect to the character of such building or other property as may be specified, the available water supplies and means of access thereto any other material particulars, and such owner or occupier shall furnish all the information in his possession.

(8) The Director may, with the previous sanction of the State Government, enter into an agreement with any fire service or the authority which maintains the said fire service, beyond the limits of any area in which this Act is in force for providing personnel or equipment or both, for firefighting purpose on such terms and conditions as may be provided by or under the agreement on reciprocal basis in public interest.

(9) The Director may, with the previous sanction of the State Government, enter into arrangements with any person or organisation who employs and maintains personnel or equipment or both, for firefighting purposes, to secure, on such terms as to payment or otherwise as may be provided by or under the arrangements, the provision by that person or organization for assistance for the purpose of dealing with fire occurring in any area in which this Act is in force.

8. (1) For the purpose of providing adequate number of officers and staff for meeting the needs of fire services, having regard to the population, potential fire hazards in certain industries and large commercial and mercantile establishments and buildings and the number of fire stations required to be provided for and maintained, the State Government may, for the purpose of securing fire prevention and life safety measures within the State, by notification in the *Official Gazette*, constitute as many fire regions as it deems fit.

Constitution of
fire region.

(2) Every notification issued under sub-section (1) shall define the limits of the region to which it relates.

(3) The State Government shall, for each fire region, appoint a person to be the Regional Fire Officer.

(4) Subject to the control, direction and superintendence of the Director, the Regional Fire Officer, shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or the rules made thereunder or orders issued in this behalf.

(5) Without prejudice to the provisions of sub-section (4), the Regional Fire Officer shall, -

- (i) function as the Head of the Fire region;
- (ii) prepare the fire management plan for the region.

(6) The qualifications for appointment and other conditions of service of the Officer, appointed in sub-section (3) shall be such as may be prescribed.

Division of fire
region into fire
divisions.

9. The State Government may, by notification in the *Official Gazette*, divide each fire region into such fire divisions as may be specified in the notification. The fire divisions may comprise of the area of one or more local authority. The fire division may also be further divided into fire stations and define their boundaries as may be necessary for administrative and operational efficiency.

Appointment of
Fire Officers.

10. (1) For the purposes of this Act, the State Government may appoint, for each,-

- (a) fire division, a person as the Divisional Fire Officer,
- (b) fire station, a person as the Station Fire Officer.

(2) The qualifications for appointment and other conditions of service of the Officers, appointed in sub-section (1) shall be such as may be prescribed.

(3) For the purposes of this Act, the State Government may for each Local Fire Services,-

- (a) classify the category of Chief Fire Officer taking into consideration the population and class of local authority or authority or such other factors as may be prescribed;
- (b) prescribe the norms and qualification of the each category of Chief Fire Officer;

(4) Subject to sub-section (3), the State Government may by an order direct the local authority or the authority, as the case may be, to appoint a person to be the Chief Fire Officer.

Powers, duties
and functions of
Fire Officers.

11. (1) Subject to the control, directions and superintendence of the Director, the Regional Fire Officer or the Chief Fire Officer appointed under sub-section (3) of section 8 and under section 10 respectively, shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or rules or orders made there under.

(2) Without prejudice to the provisions of sub-section (1), in case of fire prevention and disaster, the Regional Fire Officer or the Chief Fire Officer, as the case may be, for their jurisdiction shall in case of any fire or emergency act as commanding officer for that event and all other fire services engaged shall work under him.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the Regional Fire Officer or the Chief fire officer, as the case may be, shall for their jurisdiction, be the head of the office.

12. (1) To ensure the effective fire prevention and life safety measures of the buildings or premises as may be specified by an order by the State Government in this behalf, every factory or the owner and occupier or occupiers individually or jointly, as the case may be,-

Appointment
of Fire Safety
officer.

(i) shall appoint a fire safety officer, having such qualifications as may be prescribed;

(ii) send the compliance report to the Regional Fire Officer or the Chief Fire Officer, as the case may be, under section 18.

(2) The fire safety officer so appointed under sub-section (1) shall, be issued by the Regional Fire Officer or the Chief Fire officer, as the case may be, the enrolment certificate under his signature and seal of the office in the prescribed form.

(3) In case of a vacancy of the fire safety officer appointed under sub-section (1), either on resignation or otherwise, the factory or the owner and occupier or occupiers individually or jointly, as the case may be, shall be required to immediately appoint the fire safety officer.

(4) In case of non-appointment of the fire safety officer, as envisaged under this section (1), the Regional Fire Officer or the Chief Fire Officer, as the case may be, may take such steps as he deems necessary, which includes report to the Labour Commissioner for the closure of the factory and in other cases to the relevant authority for necessary action under relevant law.

CHAPTER III

REQUISITION, COMPENSATION FOR FIRE EQUIPMENT

13. (1) Where, the Director or the Chief Fire Officer or any other Fire Officer of any authority, who is in-charge of a fire fighting operation requires firefighting equipment or property of any other authority or any institution or individual, he may by order requisite such equipment or property for the purpose of extinguishing fire in any area and take possession thereof from the authority or any institution or individual, as the case may be.

Requisition of
fire fighting
property.

(2) As soon as may be, after the firefighting operations are over, such officer shall release the equipment or property, taken possession of by requisition under sub-section (1) and restore the same to the authority, institution or individual from whose possession such property was taken.

(3) Where any firefighting equipment or property is requisitioned under sub-section (1), there shall be paid to the owner of such property, compensation the amount of which shall be determined in accordance with the principles hereinafter set out, that is to say,—

- (a) where the amount of compensation can be fixed by agreement between the Director or, as the case may be, the Chief Fire Officer and the owner of the firefighting property, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the Director or, as the case may be, the Chief Fire Officer shall refer the matter to the District Magistrate having jurisdiction over the area in which the firefighting equipment or property was kept, used or procured and the Magistrate shall, after hearing the parties and such other persons as he deems necessary, fix the amount of compensation taking into consideration the rent which the firefighting equipment or property would normally fetch if rented out for a similar purpose. The orders of the District Magistrate fixing the amount of compensation shall be final.

Functions in
case of fire.

14. (1) In case of any fire in any area, the Director or the Regional Fire Officer or the Chief Fire Officer or any other Fire Officer who is in-charge of firefighting operations on the spot may,—

- (a) remove, or order any other fire officer or fire personnel to remove, any person who by his presence, interferes with or impedes the operations for extinguishing the fire or for saving life or property ;
- (b) close any street or passage in or near which fire has taken place;
- (c) break into or through, or pull down, any premises, for the passage of hose or appliances or cause them to be broken into or through, or pulled down, doing as little damage as possible for the purpose of extinguishing fire :

Provided that, the owner or occupier, as the case may be, of any such premises shall be paid reasonable compensation to the extent of the damage so caused in such manner as may be prescribed;

- (d) require the authority in-charge of water supply in the area to regulate the water mains so as to provide water at a specified

pressure at the place where the fire has broken out and utilise the water of any stream, cistern, well or tank or of any available source of water, public or private, for the purpose of extinguishing or limiting the spread of such fire;

- (e) exercise, in the absence of aid from the police, the same powers for dispersing an assembly of persons likely to obstruct the fire-fighting operations as if he were an officer-in-charge of a police station;
- (f) generally take such measures as may appear to be necessary for extinguishing the fire or for the protection of life or property.

(2) Any damage cause to any premises or property, due to fire, by members of the service in the discharge of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

15. It shall be lawful for the officer-in-charge of the fire-fighting operations to draw water from any source in the area which he considers necessary for such operations and on such occasions as may be required and the authority or owner or occupier having control over such water source shall supply water for that purpose at such rates as may be prescribed.

Power to
arrange
supply of
water.

16. Notwithstanding anything contained in section 14, the Regional Fire Officer or the Chief Fire Officer of any authority or any other officer authorised in this behalf, may enter into agreement with any person who employs and maintains personnel or equipment or both for fire-fighting purposes, to secure, on such terms as may be prescribed, the provisions of that person of assistance for the purpose of dealing with fires occurring in any area.

Power to
enter
into
agreement.

CHAPTER IV

TRAINING TO FIRE PERSONNELS

17. (1) The State Government may establish and maintain training centres in the State for providing courses of instruction in the prevention and extinguishment of fire for the personnel of any Fire Service and private services of industries, hotels, multi-storied buildings and such other Government and non-Government establishments as which the State Government may specify.

Training.

(2) The State Government may extend the training facilities at such centres to be established under sub-section (1) to the fire service under the control of local bodies and industrial undertakings on payment of fees as may be prescribed.

- (3) The State Government may prescribe such fee and such procedure as it may deem fit for providing a course of instruction in the prevention and extinguishment of fire.

CHAPTER V

PROVISIONS RELATING TO FIRE PREVENTION AND LIFE SAFETY MEASURES

Requirement
for fire
prevention
and life
safety
measures.

18. (1) Without prejudice to the provisions of any other law or the rules, GDCR or building bye-laws made thereunder or the National Building Code of India, relating to fire prevention and life safety measures as in operation in the State for the time being in force, housing society or the owner or where the owner is not traceable, the occupier, who are either individually or jointly responsible, of a building as classified by regulations or part thereof, shall provide fire prevention and life safety measures therein :

Provided that the owner or the occupier, as the case may be, shall, -

- (i) provide minimum firefighting and life safety installations as provided in the regulations;
- (ii) maintain the fire prevention and life safety measures in operational condition at all times, in the manner and specifications specified in regulations.

- (2) The regulations so made shall be notified in the *Official Gazette*.

Manner of
compliance
for
prevention
and life
safety
measures.

19. (1) Notwithstanding anything contained in any other law for the time being in force, -

- (a) no authority empowered to issue the occupancy certificate, shall issue the same, unless it is satisfied that the owner or the occupier, either individually or jointly, has complied with the provisions of section 18;
- (b) in case of building or part thereof, on the date of commencement of this Act, where development permission is issued and construction is not commenced or the construction is commenced but not completed or the construction is completed but occupancy certificate is not issued, and where the housing society or the owner or the occupier, individually or jointly liable, as the case may be, is required to comply the provisions of section 18, the Regional Fire Officer or the Chief Fire Officer, as the case may be, shall either *suo moto* or otherwise serve on the owner or occupier, as the case may be, a notice in the manner as may be prescribed and direct him to undertake and carryout fire prevention and life safety measures, as

deemed necessary, within two months from the commencement of this Act, or within such period or periods as may be extended by the State Government by order in writing:

Provided that any owner or the occupier, as the case may be who has been served with the notice under clause (b), or not may undertake and carryout fire prevention and life safety measures, as required to be complied under the provisions of section 18 or as mentioned in the notice issued by the Regional Fire Officer or the Chief Fire Officer or the nominated officer, as the case may be, for getting fire safety certificate.

(2) - The owner or the occupier, individually or jointly, as the case may be, shall inform to the Regional Fire Officer or the Chief Fire Officer or the nominated officer, about the compliance with respect to sub-section (1).

(3) The owners or occupiers, as the case may be, who are liable individually or jointly liable, for the building or part thereof, shall furnish to the Regional Fire Officer or the Chief Fire Officer or the nominated officer, certificate regarding the maintenance and operational condition of fire prevention and life safety measures; as specified by the regulations, issued by a Licensed Agency regarding the compliance of the fire prevention and life safety measures as required under the provisions of section 18.

20. The owners or occupiers, as the case may be, individually or jointly, who are liable to provide fire protection and life safety measures in building or part of building or premises, who, at any time, fail to comply with regard to sub-section (1) of section 19, shall be deemed to be in default. In case, where a fire safety certificate is issued earlier shall remain suspended for a period from the date of the notice for non-compliance issued by the Regional Fire Officer or the Chief Fire Officer or nominated officer and till the date compliance is made to the satisfaction of the Regional Fire Officer or the Chief Fire officer or nominated officer, as the case may be, and the same shall be duly recorded on the fire safety certificate.

Consequences
for
non-
compliance
of section 19.

21. (1) The Regional Fire Officer or the Chief Fire Officer or the nominated officer, as the case may be, may scrutinise the compliances, with regard to the requirement of section 18, made by the owners or the occupiers, as the case may be, either independently or jointly, may after making necessary inquiry, if any, issue fire safety certificate.

Suspension,
termination
and
punishment.

(2) If the owner or occupier, as the case may be, fails to comply with the directions issued by the Regional Fire Officer or the Chief Fire Officer or the nominated officer, the fire safety certificate, issued under

sub-section (1) shall be cancelled after giving owner or occupier an opportunity of hearing to show-cause.

(3) The owner or occupier of the building or premises whose fire safety certificate has been cancelled due to default on his part, shall not be entitled to occupy the building or premises on the ground of non-compliance of fire prevention and life safety measures under section 18.

(4) No person shall tamper with, alter, remove or cause any injury or damage to any fire prevention and life safety equipment installed in any such building or part thereof or instigate any other person to do so.

Safety
Measures
for fire
hazardous
materials.

22. (1) The State Government may, by notification in the *Official Gazette*, frame the regulations in respect of categorization of fire hazardous materials, trade and premises used for such purposes.

(2) Upon issuances of notification under sub-section (1) has, it shall be lawful for the Director or the Regional Fire Officer or the Chief Fire Officer or the nominated officer or any fire officer authorised either by the Director or the Regional Fire Officer or the Chief Fire Officer to direct the removal of objects or goods likely to cause the risk of fire, to a place of safety and on failure by the owner or occupier to do so, the Director or the Regional Fire Officer or the Chief Fire Officer or fire officer may, after giving the owner or occupier a reasonable opportunity of making the representation, seize, detain or remove such objects or goods. The opportunity of representation as aforesaid may be dispensed with to avoid an imminent or alarming foreseeable risk of fire.

Assistance
of police in
fire
prevention
and
firefighting
operation.

23. In firefighting operations or any other duties relating to seizure, detention or removal of any goods involving risk of fire, it shall be the duty of a police officer or members of the police force to assist and aid to the Director or such fire officer in performance of such duties under this Act.

Power to
entry and
inspect.

24. (1) The Director or the Regional Fire Officer or the Chief Fire Officer or the Nominated Officer may, after giving three hours' notice to the housing society or occupier or if there is no occupier, to the owner of any place or building or part thereof, as the case may be, enter and inspect such place or building or part thereof at any time between sunrise and sunset where such inspection appears necessary for ascertaining the adequacy or contravention of fire prevention and life safety measures:

Provided that, the Director or the Regional Fire Officer or the Chief Fire Officer or the Nominated Officer may enter into and inspect any such place or building or part thereof at any time if an industry is working or an entertainment or function is going on at such place,

building or part thereof, or if it appears to him to be expedient and necessary to do so in order to ensure safety of life and property.

(2) The Director or the Regional Fire Officer or the Chief Fire Officer or the Nominated Officer shall be provided with all possible assistance by the owner or occupier, as the case may be, of such place or building or part thereof for carrying out the inspection under sub-section (1).

(3) The owner or occupier or any other person shall not obstruct or cause any obstruction to the entry of a person empowered or authorised under this section into or upon any land or building or shall not molest such person after such entry for inspection.

(4) When any such place or building or part thereof used as a human dwelling is entered under sub-section (1), due regard shall be paid to the social and religious sentiments of the occupiers; and before any flat, apartment or a part of such building in the actual occupancy of any woman, who, according to the custom does not appear in public, is entered under sub-section (1), notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

(5) Where the inspection is carried out by the Nominated Officer under the preceding provisions of this section, he shall give a report of such inspection to the Director or the Regional Fire Officer or the Chief Fire Officer of the authority concerned.

25. (1) Without prejudice to the prosecution for an offence of non-compliance of the notice issued under clause (b) of sub-section (1) of section 19, the Director or the Regional Fire Officer or the Chief Fire Officer may, in the event of non-compliance of any such notice, take such steps including exercising the power to have the place, building or any part thereof sealed and / or disconnected facilities of water, power and drainage under section 26, as may be necessary for the compliance of such notice.

Steps to be taken for non compliance of notice.

(2) All expenses incurred by the Director or the Regional Fire Officer or the Chief Fire Officer in relation to any steps taken by him under sub-section (1) shall be payable on demand, by the owner or occupier on whom such notice is served, and shall, if not paid within fifteen days after such demand be recoverable, as if it were the arrears of tax on property and the provisions under the relevant law or any other law for the time being in force and is in operation within the area of jurisdiction of the local authority concerned for recovery of arrears of tax on property, shall apply *mutatis mutandis* for such recovery as they apply to the recovery of arrears of tax on property or where any such law is not in operation then, as an arrears of land revenue.

Evacuation
and power
to seal.

26. (1) If the Director or the Regional Fire Officer or the Chief Fire Officer is satisfied that due to inadequacy of fire prevention and life safety measures the condition of any place or building or part thereof is in imminent danger to person or property, then notwithstanding anything contained in this Act, or any other law for the time being in force, he shall, by order in writing, require the persons in possession or in occupation of such place or building or part thereof to remove themselves forthwith from such place or building or part thereof.

(2) If an order made by the Director or the Regional Fire Officer or the Chief Fire Officer under sub-section (1) is not complied with, he may direct, -

- (a) the authority responsible for supply of electricity or supply of water, to disconnect the supply of electricity or water, as the case may be;
- (b) any police officer having jurisdiction in the area to remove such persons from such place or building or part thereof and such authority or police officer shall comply with such directions.

(3) After the removal of the persons under sub-section (1) or sub-section (2), as the case may be, the Director or the Regional Fire Officer or the Chief Fire Officer shall cause such place or building or part thereof, to be sealed by such police officer forthwith.

(4) No person shall remove such seal except under a written order made by the Director or the Regional Fire Officer or the Chief Fire Officer *suo motu* or on an application of the owner or occupier.

CHAPTER VI

PROVISIONS FOR TEMPORARY STRUCTURES

Provisions
for
temporary
structures.

27. (1) The State Government may by notification in the *Official Gazette*, declare any class of temporary occupancy such as a *mandap*, *shamiyana* or tents or such other temporary structures for hosting any event, which, in its opinion, is likely to cause a risk of fire.

(2) The measures for fire prevention and life safety to be taken by the promoter, organiser, owner or occupier of such premises where such temporary structures are likely to take place or the erectors of temporary structures or *shamiyana* or tents or *mandap*, as the case may be, shall be such as may be prescribed.

(3) The Regional Fire Officer or the Chief Fire Officer or the Nominated Officer may grant permission for the use of the temporary structures or *shamiyana* or tents or *mandap*, as the case may be, ensuring an undertaking in the prescribed form is given by the promoter, organiser, owner or occupier.

(4) The Director or the Regional Fire Officer or the Chief Fire Officer or the Nominated Officer may enter and inspect any temporary structure about the correctness of the declaration and may point out the inadequacy, if any, with a direction to comply within a specified time.

(5) If the directions of the inspecting officer are not complied with within the time so given, the inspecting officer may seal the temporary structure or *shamiyana* or tents or *mandap* or dismantle such structure and the costs incurred therefore shall be recovered from such defaulter.

(6) The Regional Fire Officer or the Chief Fire Officer or any officer authorised by him in this behalf shall direct the removal of encroachments or objects or goods likely to cause a risk of fire or any obstruction to firefighting, to a place of safety, and on failure of the owner, occupier or erector, as the case may be, to do so, he may, after giving the owner or occupier or erector, as the case may be, a reasonable opportunity of making representation, report the matter to the Sub-Divisional Magistrate, in whose jurisdiction the premises or temporary structure or *shamiyana* or tents or *mandap* is situated, requesting to adjudicate the matter:

Provided that where the Regional Fire Officer or the Chief Fire Officer considers such encroachments or objects or goods to be an imminent cause of risk of fire or obstruction to firefighting, he may direct the owner or the occupier or erector of such premises or building to remove the encroachments or objects or goods forthwith and report the matter to the Sub-Divisional Magistrate accordingly.

(7) On receipt of a report under sub-section (6), the Sub-Divisional Magistrate may make an order to seize, detain or remove such encroachment; or objects or goods likely to cause a risk of fire or obstruction to firefighting.

(8) The person charged with the execution of the order made under sub-section (7), shall forthwith make an inventory of the objects and goods which he seizes under such order, and shall, at the same time, give a written notice as may be prescribed in this behalf, to the person in possession thereof at the time of seizure, that the said objects or goods shall be sold as mentioned in the order as if the same are not claimed within the stipulated time specified in the notice.

(9) On the failure of the person in whose possession the objects or goods were at the time of seizure to claim the seized goods pursuant to notice given under sub-section (8), the Sub-Divisional Magistrate shall sell them by public auction.

(10) Any person aggrieved by a notice or order of the Sub-Divisional Magistrate under sub-section (8) may, within thirty days from the date of such order, prefer an appeal to the Director:

Provided that the Director may entertain an appeal after the expiry of the said period of thirty days if he is satisfied that there was sufficient cause for not filing the appeal within prescribed period.

(11) An appeal to the Director shall be made in such form and shall be accompanied with a copy of the notice or the order appealed against and with such fees as may be prescribed and the order passed by him shall be final.

CHAPTER VII

LICENSED AGENCY

Licensed
Agency.

28. (1) The Director may grant a license to a person or association of persons as he thinks fit, to act as a Licensed Agency for the purposes of this Act.

(2) Any person intending to have or renew such license shall apply to the Director in the prescribed form and in the prescribed manner along with such fee as may be prescribed.

(3) On receipt of an application made under sub-section (2), the Director may, after holding such inquiry as he deems fit, either grant the license in the prescribed form for a period of two years or renew the same for a like period or, for reasons to be recorded in writing, by order refuse to grant or renew the license.

(4) Where the Director has reason to believe that any person to whom a license has been granted has contravened any of the provisions of this Act or of the rules or has failed to comply with the conditions of the license or is unfit by reason of incompetency, misconduct or any other grave reasons, the Director may, after giving to the person a reasonable opportunity to show cause, for reasons to be recorded in writing, by order suspend or cancel the license.

Work to be
carried out
by the
licensed
Agency.

29. (1) No person other than a Licensed Agency shall carry out the work of providing fire prevention and life safety measures or performing such other related activities required to be carried out in any place or building or part thereof:

Provided that, if the Regional Fire Officer or the Chief Fire Officer is satisfied that, for any reason, to be recorded in writing, the owner or occupier is not able to carry out the fire prevention and fire safety measures in any such place or building or part thereof through a Licensed Agency, the Regional Fire Officer or the Chief Fire Officer may, with the approval of the Director, authorise any other licensed agency to carry out such work. The cost for the work carried out shall be recovered from the owner or the occupier, as the case may be.

(2) The Licensed Agency shall give a certificate under sub-section (3) of section 19 as to the compliance of the fire prevention and life safety measures or maintenance thereof unless without there being actual compliance or maintenance as specified in the regulations.

CHAPTER VIII

LEVY OF FIRE FEE AND OTHER CHARGES

30. (1) For the purpose of providing for the cost of fire prevention and life safety services in the State, the State Government may levy and collect a fire fees on lands and buildings which are situated in any area in which this Act is in force notwithstanding any declaration made under proviso to sub-section (1) of section 3.

Levy of fire fees.

(2) The fire fees shall be levied at such rate in terms of percentage of such property tax as the State Government may, by notification in the *Official Gazette*, determine from time to time:

Provided that, the State Government may determine different rate of percentage for different areas or different local authority or authorities.

31. (1) The authorities empowered to assess, collect and enforce payment of property tax under the relevant law authorising the local authority of the area to levy such tax shall, on behalf of the State Government and subject to any rules made under this Act, assess, collect and enforce payment of the fire fee in the same manner as the property tax is assessed, paid and collected and for this purpose, and may exercise all or any of the powers conferred on them under the relevant law and the provisions of such law including provisions relating to return, appeals, reviews, reference and penalties shall apply accordingly.

Mode of assessment, collection, etc. of fire fees.

(2) Such portion of the total proceeds of the fire fees as the Government may determine shall be deducted to meet the cost of collection of the fire fee.

32. (1) There shall be constituted a fund to be known as "Fire Prevention and Life Safety Fund".

Constitution of fund.

(2) The proceeds of fire fees and penalties (other than fines) recovered under this Act, shall first be credited to the Consolidated Fund of the State and after deduction of the expenses of collection and recovery therefrom, under appropriation duly made by law in this behalf, be entered in, and transferred to, fund constituted under sub-section (1).

- (3) Any amount transferred to the fund under sub-section (2) shall be charged on the Consolidated Fund of the State.
- (4) The amount in the fund shall be expended in such manner and under such conditions as may be prescribed, for the purposes of this Act.
- (5) The fund shall be reflected into the budget estimate of the respective authority and the accounts in respect thereof shall be maintained and audited in accordance with the procedure prescribed for the purpose of maintenance of accounts in the relevant law or the rules and orders made thereunder as are applicable to the respective authority.

CHAPTER IX

APPEAL

Appeal.

33. Any person aggrieved by —

- (i) the notice issued under clause (b) of sub-section (1) of section 19, or
- (ii) the refusal of the Regional Officer or the Chief Fire Officer to pass an order under sub-section (4) of section 26, may prefer an appeal to the Director. Such appeal shall be made in such manner and accompanied with such fees, as may be prescribed. The Director after giving a reasonable opportunity to the appellant of being heard, pass an order, and every such order passed under this section shall be final:

Provided that in case of local fire service of any local authority, in so far as the area comprising of Municipal Corporation is concerned, the Commissioner shall be the appellate authority.

Limitations
for filing
Appeal.

34. No appeal under section 33 shall be entertained unless, such appeal is preferred within fifteen days from the date of service of notice or the date on which the refusal is communicated to the Director or the Commissioner, as the case may be:

Provided that, the Director or the Commissioner, as the case may be, may admit the appeal preferred after the expiration of the fifteen days if he is satisfied that the appellant had sufficient cause for not preferring the appeal within said period.

CHAPTER X

OFFENCES AND PENALTIES

35. No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate First Class shall try an offence punishable under this Act or the rules made thereunder. **Jurisdiction of Court.**
36. No court shall entertain any suit, application or other proceedings in respect of any notice given under section 19 or any action taken under sub-section (2) of section 26 or an order of refusal to permit removal of seal passed under sub-section (4) of section 26 and sub-section (10) of section 27 of this Act or no action or any order shall be called in question otherwise than by preferring an appeal as provided by this Act. **Bar of Court.**
37. Save in the case of cognizable offences, no court shall take cognizance of an offence punishable under this Act or the rules made thereunder except on the complaint made by the Regional Fire Officer or the Chief Fire Officer or any other officer authorised by him in this behalf. **Cognizance of offence.**
38. (1) The Director or the Regional Fire Officer or the Chief Fire Officer, or any officer authorised in this behalf by the Director may by general or special order, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act or the rules made thereunder or withdraw from such proceedings at any stage. **Compounding of offence or withdrawal of proceedings.**
- (2) When an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged, and no further proceedings shall be taken against him in respect of the offence compounded.
39. (1) Whoever contravenes any of the following provisions,- **Offences and penalties**
- (a) under sub-section (1) of section 18, fails to provide and maintain the fire prevention and life safety equipment in good repair and efficient condition;
 - (b) under sub-section (1) of section 19, fails to comply with the notice directing to undertake and carry out fire prevention and life safety measures;
 - (c) under sub-section (4) of section 21, tampers with, alters, removes or causes any injury or damage to any fire prevention and life safety equipment installed in a building or instigating any other person to do so;
 - (d) under sub-section (2) of section 22, after non-compliance of the direction of removal of objects or goods likely to cause the risk of fire to a place of safety, causes obstruction in authorized seizure, detention, and removal of such objects or goods;

- (e) under sub-section (3) of section 24 obstructs the entry by an authorized or empowered person or molests such person after such entry for inspection; under sub-section (4) of section 26, removes the seal of the building without written order made by the Regional Fire Officer or the Chief Fire Officer;
- (f) under sub-section (4) of section 27, fails to comply with the directions issued by the Director or the Regional Fire Officer or the Chief Fire Officer;
- (g) under sub-section (1) of section 29 carries out the work of providing fire prevention and life safety measures, or performing such other related activities by a person other than the Licensed Agency; or
- (h) under sub-section (2) of section 29 giving a certificate under sub-section (3) of section 19 without there being actual compliance or maintenance of fire prevention and life safety measures and equipment;

Without prejudice to any other action taken or which may be taken under any of the provisions of this Act, be punished with imprisonment for a term which shall not be less than one month which may extend up to two years or fine which shall not be less than rupees 10,000 which may extend to rupees 1,00,000, or both and where the offence is continuing one with a further fine which may extend to rupees 3000 for every day during which such offence continues after the conviction for the first such offence.

(2) Whoever —

- (a) wilfully attempts, in any manner whatsoever, to evade any fee or interest leviable under this Act, or
- (b) contravenes any of the provisions of this Act or the rules for which no specific penalty has been provided for by this Act, or
- (c) fails to comply with the requirement of any order or any notice or any direction, issued under any of the provisions of this Act or the rules, by the Director or any authority or the Regional Fire Officer or the Chief Fire Officer of such Authority or any other officer authorised by any of them, for which no specific penalty has been provided by this Act, shall, on conviction, be punished, —

- (i) in case where the amount, of fees and/or interest exceeds rupees 50,000 during the period of a year, with imprisonment for a term which shall not be less than three months but which may extend to two years or with fine or with both;
- (ii) in case where such amount is less than rupees 50,000 during a year, with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine or with both;
- (iii) in case of contravention of any provision of this Act or the rules made thereunder or failure to comply with the requirement of any order or notice as aforesaid, with imprisonment for a term which shall not be less than three months but which may extend to two years or with fine or with both.

(3) Whoever aids or abets any person in commission of any offence specified in sub-section (1) or (2) shall, if the act is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

40. Offences under sub-section (4) of section 21 and of removal of seal without an order under sub-section (4) of section 26 shall be cognizable and non-bailable.

Offences and penalties for removing seal.

41. Every police officer, Government and private agency or person shall be bound to assist the members of the Fire Service reasonably demanding his or its aid in the performance of their duties under this Act.

Assistance to fire Officers.

45 of 1860.

42. Any person who without Just cause fails to communicate information in his possession regarding an outbreak of fire shall be deemed to have committed an offence punishable under section 176 of the Indian Penal Code, 1860.

Failure to give information.

43. Any person who wilfully obstructs or interferes with any member of the Fire Service who is engaged in firefighting operations, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend, to five thousand rupees, or with both.

Penalty for wilfully obstructing firefighting rescue operations.

False report 44. Any person who knowingly gives or causes to be given a false report of the outbreak of a fire to any person authorised to receive such report by means of a statement, message or otherwise shall be punished with imprisonment which may extend to three months or with fine which may extend to one thousand rupees, or with both.

Offence by a company. 45. (1) Where an offence punishable under this Act has been committed by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

- (a) “company” means a body corporate and includes a firm or other association of individuals ; and
- (b) “director”, in relation to a firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

CHAPTER XI MISCELLANEOUS

Officers and employees to be public servant.

46. Every officer or employee shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

47. In the event of a member of the Fire Service (other than a Gazetted Officer), dies while on active duty, the State Government shall pay, to the next of kin as funeral expenses, such amount as the State Government may by an order determine. **Death of member of Fire Service.**
48. It shall be lawful for the Government or any officer authorised by it in this behalf, to employ the Fire Service in any rescue, salvage or other works for which it is suitable by reason of its training, appliances and equipment. **Employment on other duties.**
49. (1) The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any other law. **Effect of inconsistency with other Act.**
- (2) Subject to the provisions of sub-section (1), the provisions of this Act shall be in addition to, and not, save as expressly provided hereinabove, be in derogation of the provisions of any relevant law for the time being in force in any area in which this Act is in force.
50. (1) The provisions of this Act shall have overriding effect notwithstanding anything contained in any other law for the time being in force, in so far as the provisions relating to fire prevention and life safety are concerned. **Act to have overriding effect and effect of other laws.**
- (2) Notwithstanding anything contained in any other law for the time being in force, when anything in relation to the fire prevention and life safety measures is required to be done or approved under this Act, any such thing shall not be deemed to have been unlawfully done or approved by reason only of the fact that permission, approval or sanction required under such other law therefor has not been obtained.
51. In order that the effective fire prevention and life safety measures are provided by the State Fire Service, the State Government may by an order, transfer all or any assets, rights and liabilities of any body owned or controlled by the State Government to the State Fire Service. **Transfer of assets, rights, etc. by State Government to State fire Services.**
52. (1) The State Government may, by notification in the *Official Gazette*, delegate any of its powers, except the power of making rules, exercisable by it under this Act or the rules made thereunder, to the Director in such matters and subject to such terms and conditions, if any, as may be specified in such notification. **Delegation of power.**
- (2) The Director may, with the prior approval of the State Government, by an order in writing, delegate any of its powers exercisable by him under this Act or the rules made thereunder to the Regional Fire Officer or the Chief Fire Officer subject to such terms and conditions, if any, as may be specified in such order.

Power to
issue
directions.

53. The Director may, for the purpose of performing functions under this Act and for reasons to be recorded in writing, issue such directions to a person to do or abstain from doing a specified thing within the affected areas in which the emergency relief measures are being undertaken and any person on receipt of such directions shall comply with the same.

Reporting
by Regional
Fire Officer
or Chief fire
Officers.

54. Every Regional Fire Officer or the Chief Fire Officer shall furnish to the Director such reports, returns and other information as the Director may, from time to time, require.

Power of
State
Government
to give
Directions.

55. The State Government may issue, from time to time, directions to the Director as it may deem fit for giving effect to the provisions of this Act and it shall be the duty of the Director to comply with such directions.

Decision of
State
Government
to be final

56. If any dispute arises with respect to the exercise of powers and discharge of functions by the Director or the Regional Fire Officer or the Chief Fire Officer under this Act, the same shall be referred to the State Government and the decision of the State Government thereon shall be final.

Power to
make rules.

57. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules, not inconsistent with this Act, for carrying out the purposes of this Act:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-

- (a) prescribing number of fire sub-divisions of fire divisions and fire divisions of fire region under clause (j) and clause (l) respectively, under section (1);
- (b) prescribing qualifications for appointment of nominated officer under clause (u) of section 1;
- (c) prescribing rules governing the mode of recruitment of staff, grade of post, the qualifications, pay, allowances and other conditions of service of the officers and employees under sub-section (2) of section 5;

- (d) prescribing the qualifications for appointment and other conditions of service of the Regional Fire Officer under sub-clause (3) of section 8;
- (e) prescribing the qualifications for appointment and other conditions of service of the Regional Fire Officer, the Divisional Fire Officer and the Station Fire Officer under sub-section (2) of section 10;
- (f) prescribe other factors for the classification of the category of Chief Fire Officer for each Local Fire Service under clause (a) of sub-section (3) of section 10;
- (g) prescribing the norms and qualification of the each category of Chief Fire Officer under clause (b) of sub-section (3) of section 10;
- (h) prescribing the norms and qualification of the each category of Fire Safety Officer under sub-section (1) of section 12;
- (i) prescribing the form of enrolment certificate under sub-section (2) of section 12;
- (j) prescribing the manner in which and the extent to which compensation shall be paid for damage caused under clause (c) of sub-section (1) of section 14;
- (k) prescribing rates of water supply, for drawing the water during fire-fighting operations under section 15;
- (l) prescribing the terms of agreement with any person to maintain equipment for fire-fighting under section 16;
- (m) the fees payable for the training of personnel of any Fire Service and private services of industries, hotels, multi-storied buildings under sub-section (2) of section 17;
- (n) prescribing the fee and the procedure for providing a course of instruction under sub-section (3) of section 17;
- (o) prescribing the manner of service of notice under clause (b) of sub-section (1) of section 19;
- (p) prescribing the measure for fire prevention and life safety under of sub-section (2) of section 27;
- (q) prescribing the form of undertaking under sub-section (3) of section 27;
- (r) prescribing the manner of service of notice under sub-section (8) of section 27;
- (s) prescribing the form of appeal and fees under sub-section (11) of section 27;
- (t) prescribing the fee to be paid, the form of application and form of licence and manner under sub-section (2) of section 28;

- (u) prescribing the fee to be paid, the form and manner under sub-section (2) of section 28;
- (v) prescribing the manner and conditions for the expenses made from the fund under sub-section (4) of section 32;
- (w) prescribing the manner and fees for filing an appeal under clause (ii) of section 33;

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be they are made, and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to
make
regulations.

58. (1) The Director may, with the previous approval of the State Government, by notification in the *Official Gazette*, make regulations not inconsistent with the Act and the rules made there-under, for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may be made to provide for all or any of the matters expressly required or allowed by this Act to be specified by regulations.

Power to
remove
difficulty.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion requires, by order do anything not inconsistent with the objects and purposes of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no order shall be made under this section after the expiry of three years from the date of coming into force of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

Removal of
doubt.

60. For the removal of doubt, it is hereby declared that fire prevention and life safety measures specified under this Act shall be without prejudice to any civil or the criminal liability to which a person may be subject to under any law for the time being in force.

Protection
of action
taken in
good faith.

61. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules.

62. Any amount payable under this Act shall be recovered as an arrear of land revenue. Recovery of dues.

63. Every member of the fire service shall perform functions imposed by or under this Act in addition to and not in derogation of functions performed by the State Government or any of its officers in pursuance of the provisions of any law for the time being in force or in exercise of the executive powers of the State for the prevention of fire and life safety in the State or in relation thereto. Savings.

64. In order to assist any disaster, other than resulting due to fire, all Fire Services shall be considered as emergency services: Fire Services to be consider as Emergency Services.

Provided that, in case where the emergency services are not related only to fire, the decisions and directions of the authority in charge of the emergency service shall prevail.

STATEMENT OF OBJECTS AND REASONS

There has been rapid industrial as well as economic growth in the State of Gujarat and in turn demand for buildings for residential, commercial as well as industrial purposes is increasing day by day. At present, there are fire services being operated by different agencies in the State and mainly provisions relating to fire are a part of local laws. The National building code, building bye-laws and the regulations controlling the development of the buildings and premises provides for the fire prevention measures required to be installed. At present, the fire safety installations, as per the regulations controlling the development of buildings, are being provided. However, there is no effective provision which would ascertain that the owner or the occupier of the building or premises would carry out the maintenance of the fire safety devices and the consequences are that it is not sure that such installations would work when the fire erupts. Moreover, for effectively manage the fire extinguishing different resources viz. water; manpower machines available from different sources should be made available at the occasion. Also for smooth operations of fire extinguishing control of the situation, the personnel require assistance of police, and powers to prevent act which may be detrimental in the operations.

It is therefore considered to have a unified fire service for the whole State of Gujarat in order to prevent the eruption of fire as also to take effective steps in case of fire. It is also necessary to have all the fire agencies under one umbrella. It is, also, considered necessary to enact a law which would ascertain safety of life and property against fire.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, some of the important provisions of the Bill:-

Clause 1.- This clause provides for the short title, extent and commencement of the Act.

Clause 2.- This clause provides for certain terms used in the Bill.

Clause 3.- This clause provides for the single State Fire Service for whole of the State with officers and sub-ordinate ranks of the Fire Service. It also provides to exclude or include private fire services and such other local fire services as may be notified by the State Government. It further provides to declare by notification, the authorities whose services relating to fire shall be the part of the State Fire Services and matters regulating transfer of the assets, rights and liabilities of such local authorities to the State Fire Services.

Clause 4.- This clause provides for the overall control of the State Government of all fire services in the State.

Clause 5.- This clause provides for the constitution and classification of the Fire Services.

Clause 6.- This clause provides for appointment of the Director by the State Government.

Clause 7.- This provides for the powers, duties and functions of the Director.

- Clause 8.-** This clause provides for the constitution of regions defining the limits of the regions and appointment of the Regional Fire Officer. It also provides for the duties and functions of the Regional Fire Officer.
- Clause 9.-** This clause provides for the regions to be divided into fire divisions and further into fire stations.
- Clause 10.-** This clause provides for the Divisional Fire Officers for each division and the Station Fire Officer for each fire station as the case may be. It also provides to direct to the local authority to appoint the Chief Fire Officer.
- Clause 11.-** This clause provides the powers, duties and functions of the Regional Fire Officer.
- Clause 12.-** This clause provides for the appointment of Fire Safety Officer in premises and building specified in an order to be made by the State Government. It further provides for the Fire Safety Officer to be enrolled with the Regional Fire Officer or the Chief Fire Officer. In case of non-appointment of the Fire Safety Officer, the non-compliance shall be reported by the fire officer to the Labour Commissioner for appropriate action under relevant law.
- Clause 13.-** This clause provides for the powers to requisite property required for firefighting, and payment of compensation for such property.
- Clause 14.-** This clause provides for the functions of the Director, Regional Fire Officer or the Chief Fire Officer or any fire officer required at the time of fire.
- Clause 15.-** This clause provides to draw water from any source for the purpose of firefighting.
- Clause 16.-** This clause provides for the Regional Fire Officer or the Chief Fire Officer or any of the fire officer to make an agreement with any person who employs and maintains personnel or equipment or both for fire-fighting purposes, for assistance to deal with fires.
- Clause 17.-** This clause provides for training to fire personnel.
- Clause 18.-** This clause provides for the requirement of fire prevention life safety measures which the owner or the occupier individually or jointly has to provide in the building and premises and maintain the same.
- Clause 19.-** This clause specifies the stage of building construction and manner of providing the life safety and fire prevention measures.
- Clause 20.-** This clause provides for the suspension of the license in case of non-compliance of the directions issued under section 19.
- Clause 21.-** This clause provides for the issue of fire certificate.
- Clause 22.-** This clause provides for power of State Government to frame regulations to categorise of fire hazardous materials, trade and premises.
- Clause 23.-** This clause provides for the duty of the police officer to assist in firefighting operations and such other matters relating to seizure, detaining or removing any goods involving risk of fire.

Clause 24.- This clause empowers the Director and other fire officers to enter and inspect to enter a premises or a building to ascertain the adequacy or contravention of fire prevention and life safety measure.

Clause 25.- This clause empowers the Director and other fire officers to take steps such as sealing of building, disconnection of facilities of water or power or drainage, for the non-compliance of the notice issued under section 19 and recovery of expenses incurred by such authorities for the said purposes.

Clause 26.- This clause provides for removing the persons in case of condition of premises of building has eminent danger to person or property due to inadequacy of fire prevention and life safety measures. It also provides for consequential actions for non-compliance such as disconnection for supply of electricity or water and directions to police officer of the area to remove such persons from such place or building sealing of the building by such police officer and that such seal shall not be removed except under a written order of the Director or the Chief Fire Officer.

Clause 27.- This clause provides for classification by notification, of the structures and premises for temporary occupancy such as a mandap, shamiyana or tents or such seizure, detaining or removing such encroachment or objects or goods likely to cause a risk of fire or obstruction to firefighting for the non-compliance of measures to be taken by the erector for life safety and fire prevention. It also provides for the appeal to the Director or the Commissioner.

Clause 28.- This clause specifies the manner of granting and renewed of a license by the Director to a person or association of persons required to provide the compliance report with respect to facilities made for fire prevention and life safety.

Clause 29.- This clause provides that only the Licensed Agency shall carry out reporting of compliance of fire prevention and life safety facilities made in the buildings and premises.

Clause 30.- This clause provides for the of levy of fire fees, rate in terms of percentage of property tax as may be determined by the State Government, taking into consideration different areas and different local authorities.

Clause 31.- This clause provides the manner of assessment and collection of fire fees.

Clause 32.- This clause provides for the constitution of the "Fire Prevention and Life Safety Fund" to be held by the State Government for the purposes of augmentation, improvement or creation of facilities. It also provides the manner of deposit of proceeds.

Clauses 33 and 34.- These clauses provide for preferring an appeal.

Clauses 35, 36 and 37.- These clauses provide for the jurisdiction of the Court, bar of jurisdiction of the court and filing of complaint by the Regional Fire Officer or the Chief Fire Officer or any other authorized officers.

- Clause 38.-** This clause provides for the compounding of offences and withdrawal of proceedings.
- Clause 39.-** This clause provides for the different offences and punishments thereof for contravention of the provisions of the Act.
- Clause 40.-** This clause provides for the punishment for the removal of seal without a written order of the Director or other Fire authorities.
- Clause 41.-** This clause provides that every police officer, Government and private agency or person is bound to assist the members of the Fire Services.
- Clause 42.-** This clause provides for the consequences for failure to communicate by a person the information in his possession regarding an outbreak of fire.
- Clause 43.-** This clause provides for the punishment to any person who wilfully obstructs or interferes with any member of the Fire Service who is engaged in firefighting operations.
- Clause 44.-** This clause provides for the punishment to any person if he gives a false report knowingly about the outbreak of a fire.
- Clause 45.-** This clause provides for offences committed by a company and its officers, and the punishments therefore.
- Clause 46.-** This clause provides that, officers and employees of any fire service acting in pursuance of the provisions of this Act or rules or regulations made thereunder, shall be deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.
- Clause 47.-** This clause provides for the assistance which shall be paid to the next of kin, in case of death of a member of State Fire Service while on active duty.
- Clause 48.-** This clause provides for the employment of the Fire Service in any rescue, salvage or other works, by the State Government.
- Clause 49.-** This clause provides that the provisions of this Act and the rules shall be in addition to and not in derogation to any other law for the time being in force in any area.
- Clause 50.-** This clause provides that the provisions of this Act shall have an overriding effect over other law for the time being in force with respect to Fire Prevention and Life Safety.
- Clause 51.-** This clause provides for the transfer of assets, rights and liabilities of any body owned or controlled by the State Government to the State Fire Service.
- Clause 52.-** This clause provides for the power of the State Government to delegate its powers to the Director, and powers of the Director to the Regional Fire Officer or Chief Fire Officer.
- Clause 53.-** This clause provides for the power of the Director to issue directions to any person to do or to abstain from doing a specified thing within the affected areas in which the emergency relief measures are being undertaken.

Clause 54.- This clause provides for furnishing reports, returns and other information to the Director by the Regional Fire Officer or the Chief Fire Officer.

Clause 55. - This clause provides for the power of the State Government to issue directions to the Director as it may deem fit for giving effect to the provisions of this Act.

Clause 56.- This clause provides that, in any dispute with respect to exercise of the powers of the Director, the Regional Fire Officer or the Chief Fire Officer, the decision of the State Government shall be final.

Clause 57.- This clause empowers the State Government to make rules by notification in the *Official Gazette*, to be in consistent with the Act, for enabling it to perform its functions under this Act.

Clause 58.- This clause empowers the Director, with the previous approval of the State Government, by notification in the *Official Gazette*, to make regulations consistent with the Act and the rules made there-under, for enabling it to perform its functions under this Act.

Clause 59.- This clause empowers the State Government to remove difficulty if the same arises within a period of three years in giving effect to the provisions of this Act which are necessary or expedient for the purpose of removing the difficulty.

Clause 60. - This clause provides that the fire prevention and life safety measures specified under the Act shall be without prejudice to any civil or the criminal liability under any law for the time being in force.

Clause 61.- This clause provides for usual indemnity for action taken in good faith.

Clause 62.- This clause provides that any amount payable under this Act shall be recovered as an arrears of land revenue.

Clause 63.- This clause provides that for every member of the fire service shall perform functions imposed by or under this Act in addition to and not in derogation of functions performed by the State Government or any of its officers in pursuance of the provisions of any law.

Clause 64.- This clause provides that, in order to assist any disaster, other than resulting due to fire, all Fire Services shall be considered as emergency services.

ANANDIBEN PATEL,

FINACIAL MEMORANDUM

Clause 5 of the Bill provides for constitution of State Fire Service consisting of such number of staff in several ranks. *Clause 6* provides for appointment of Director and such other officers and staff for State Fire Service. *Clauses 8 and 10* provide for appointment of Regional Fire Officers, Divisional Fire Officers and Station Fire Officers.

If the Bill is enacted and brought into force, it would involve expenditure from the Consolidated Fund of the State as follows:-

(a) Capital Expenditure (Non-recurring) : Rs. 163 crores,

(ii) Recurring Expenditure : Rs. 27.22 crores

Total Expenditure : Rs. 190.22 crores

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects :-

Clause 1.- Sub-clause (3) empowers the State Government by notification in the *Official Gazette*, to appoint the date on which the Act shall come into force; and it also empowers the State Government to appoint different dates for different areas and for different provisions to bring the Act into force.

Clause 2.- (i) clause (j) empowers the State Government to prescribe by rules, such number of fire sub-divisions of fire divisions of the territory of State;

(ii) clause (l) empowers the State Government to prescribe by rules, such number of **fire regions of territory of State** comprising of such number of fire divisions;

(iii) clause (u) empowers the State Government to prescribe by rules, qualifications for appointment of nominated officer.

Clause 3.- (i) Proviso to sub-clause (1) of this clause empowers the State Government, by notification in the *Official Gazette*, to declare that any Fire Brigade or any other Local Fire Service of any local authority in the State which shall form or shall not form the part of the State Fire Service;

(ii) sub-clause (2) of this clause empowers the State Government, by notification in the *Official Gazette*, to declare that the services relating to any fire brigade or fire prevention shall form a part of State Fire Service with effect from such date as may be specified in the said notification.

Clause 5.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the different posts of the State Fire Service, the mode of recruitment of staff, grade of post, the qualifications, pay, allowances and other conditions of service of the officers and other staff of the State Fire Service;

(ii) sub-clause (2) of this clause empowers the State Government, by notification in the *Official Gazette*, to review and modify the existing pattern of the existing different fire services in the State.

Clause 8.- (i) Sub-clause (2) of this clause empowers the State Government, to constitute by notification in the *Official Gazette*, fire regions for the purpose of securing fire prevention and life safety measures within the State;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the qualifications for appointment and other conditions of service of the Regional Fire Officer.

Clause 9.- This clause empowers the State Government, by notification in the *Official Gazette*, to divide each fire region into such fire divisions as may be specified in the said notification.

Clause 10.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the qualifications for appointment and other conditions of service of the Regional Fire Officer, the Divisional Fire Officer and the Station Fire Officer.

(ii) clause (a) of sub-clause (3) of this clause empowers the State Government to prescribe by rules, such other factors for classification of the category of Chief Fire Officer taking into consideration the population and class of local authority or authority, for each Local Fire Services classify the category of Chief Fire Officer;

(iii) clause (b) of sub-clause (3) of this clause empowers the State Government to prescribe by rules, the norms and qualification of the each category of Chief Fire Officer.

Clause 12.- (i) clause (i) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, the qualifications for appointment of Fire Safety Officer;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the forms in which the enrolment certificate shall be issued.

Clause 14.- Proviso to clause (c) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which and the extent to which compensation shall be paid for damage caused.

Clause 15.- This clause empowers the State Government to prescribe by rules, the rates of water supply, for drawing the water during fire-fighting operations.

Clause 16.- This clause empowers the State Government to prescribe by rules, the terms on which the Regional Fire Officer or the Chief Fire Officer of any authority or any other officer authorised in this behalf, may enter into agreement with any person who employs and maintains personnel or equipment for fire-fighting purposes dealing with fires occurring in any area.

Clause 17.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the fees payable by personnel of any Fire Service and private services of industries, hotels, multi-storied buildings and such other Government and non-Government establishments for imparting training;

(ii) Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the fee and the procedure for providing a course of instruction in the prevention and extinguishment of fire.

Clause 18.- Sub-clause (1) of this clause empowers the Director to prescribe by regulations, the classification of buildings for providing fire prevention and life safety measures, minimum firefighting and life safety installations and manner and specification for maintenance of fire prevention and life safety measures in operational condition.

Clause 19.- Clause (b) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the Regional Fire Officer or the Chief Fire Officer shall serve a notice on the owner or occupier to undertake and carryout fire prevention and life safety measures.

Clause 22.- Sub-clause (1) of this clause empowers the State Government to frame, by notification in the *Official Gazette*, the regulations in respect of categorization of fire hazardous materials, trade and premises used for such purposes.

Clause 27.- (i) Sub-clauses (1) and (2) of this clause empower the State Government to declare, by notification in the *Official Gazette*, any class of temporary occupancy such as a *mandap*, *shamiyana* or tents or such other temporary structures for hosting any event which is likely to cause a risk of fire; and also empowers the State Government to prescribe by rules, the measures for fire prevention and life safety;

(ii) Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the form of undertaking to be given by the promoter, organiser, owner or occupier for obtaining permission for the use of the temporary structures or *shamiyana* or tents or *mandap*;

(iii) sub-clause (8) of this clause empowers the State Government to prescribe by rules, the manner in which the Regional Fire Officer or the Chief Fire Officer shall serve a notice on the owner or occupier, stating that the objects or goods likely to cause a risk of fire or obstruction to firefighting shall be sold as if the same are not claimed within the time as specified in the notice;

(iii) sub-clause (11) of this clause empowers the State Government to prescribe by rules, the form of appeal and fee to be paid with such appeal.

Clause 28.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the fee to be paid and the form and manner in which application shall be made for licence granted to act as a Licenced Agency;

(ii) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form of licence granted to act as Licensed Agency.

Clause 30.- Sub-clause (2) of this clause empowers the State Government to determine, by notification in the *Official Gazette*, the rates of surcharge on the property tax, levied as a fire fees.

Clause 32.- Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the manner in which and the conditions subject to which amount in the Fire Prevention and Life Safety Fund shall be expended.

Clause 33.- Sub-clause (ii) of this clause empowers the State Government to prescribe by rules, the manner and the fee for filing an appeal to the Director.

Clause 52.- This clause empowers the State Government to delegate, by notification in the *Official Gazette*, any of its powers in such matters, except the power of making rules, to the Director and subject to such terms and conditions, as specified in such notification.

Clause 57.- This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of this Act and particularly for the matters specified therein.

Clause 58.- Sub-clause (1) of this clause empowers the Director with the previous approval of the State Government, to make, by notification in the *Official Gazette*, regulations not inconsistent with the Act and the rules made thereunder.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 19th March, 2013.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 21st March, 2013.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT UNIVERSITIES LAWS (AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 22 OF 2013.

A BILL

further to amend the Acts relating to certain Universities in the State.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Universities Laws (Amendment) Act, 2013. Short title.

Amendment
of Acts
relating to
certain
Universities
in the State.

2. Each of the Acts specified in the second column of the Schedule shall be amended in the manner and to the extent specified against it in the third column thereof.

SCHEDULE

Sr. No.	Short title	Extent of Amendment.	
1	2	3	
1.	The Gujarat University Act, 1949 (Bom. L of 1949).	Amendment of section 10 of Bom. L of 1949. Amendment of section 16 of Bom. L of 1949. Amendment of section 19 of Bom. L of 1949.	1. In section 10, in sub-section (6), for the words "the Chancellor", the words "the State Government" shall be substituted. 2. In section 16, in sub-section (1), under the heading "Class II-Ordinary Members", in paragraph (D), in clauses (i) and (ii), for the words "the Chancellor" wherever they occur, the words "the State Government" shall be substituted. 3. In section 19, in sub-section (1), in clause (xi), for the words "the Chancellor", the words "the State Government" shall be substituted.
2.	The Sardar Patel University Act, 1955 (Guj. XL of 1955).	Amendment of section 10 of Guj. 40 of 1955.	In section 10, in sub-section (6), for the words "the Chancellor", the words "the State Government" shall be substituted.
3.	The Veer Narmad South Gujarat University Act, 1965 (Guj. 38 of 1965).	Amendment of section 10 of Guj. 38 of 1965.	In section 10, in sub-section (6), for the words "the Chancellor", the words "the State Government" shall be substituted.
4.	The Saurashtra University Act, 1965 (Guj. 39 of 1965).	Amendment of section 10 of Guj. 39 of 1965.	In section 10, in sub-section (6), for the words "the Chancellor", the words "the State Government" shall be substituted.

5.	The Gujarat Ayurved University Act, 1965 (Guj. 40 of 1965).	Amendment of section 10 of Guj. 40 of 1965.	In section 10,- (i) in sub-section (1B), for the words "the Chancellor", the words "the State Government" shall be substituted; (ii) in sub-section (4), for the words "the Chancellor", the words "the State Government" shall be substituted.
6.	The Maharaja Krishnakumarsinhji Bhavnagar University Act, 1978 (Guj. 26 of 1978).	Amendment of section 10 of Guj. 26 of 1978. Amendment of section 11A of Guj. 26 of 1978. Amendment of section 15 of Guj. 26 of 1978. Amendment of section 18 of Guj. 26 of 1978. Amendment of section 63 of Guj. 26 of 1978.	1. In section 10,- (i) In sub-section (1), the words "the Chancellor in consultation with" shall be deleted; (ii) in sub-section (3), for the words "and shall recommend to the Chancellor", the words "and shall recommend to the State Government" shall be substituted; (iii) in sub-section (6), for the words "the Chancellor", the words "the State Government" shall be substituted. 2. In section 11A, in sub-section (1), for the words "the Chancellor", the words "the State Government" shall be substituted. 3. In section 15, in sub-section (1), under the heading "Class II-Ordinary Members", in paragraph (B), in clause (i), for the words "the Chancellor", the words "the State Government" shall be substituted. 4. In section 18, in sub-section (1), in clause (v), for the words "the Chancellor", the words "the State Government" shall be substituted. 5. In section 63, in sub-section (1), for the words "the Chancellor", the words "the State Government" shall be substituted.

7.	The Hemchandracharya North Gujarat University Act, 1986 (Guj. 22 of 1986).	<p>Amendment of section 10 of Guj. 22 of 1986.</p> <p>Amendment of section 12 of Guj. 22 of 1986.</p> <p>Amendment of section 16 of Guj. 22 of 1986.</p> <p>Amendment of section 19 of Guj. 22 of 1986.</p> <p>Amendment of section 74 of Guj. 22 of 1986.</p>	<p>1. In section 10,-</p> <p>(i) In sub-section (1), the words "the Chancellor in consultation with" shall be deleted;</p> <p>(ii) in sub-section (3), for the words "and shall recommend to the Chancellor", the words "and shall recommend to the State Government" shall be substituted;</p> <p>(iii) in sub-section (6), for the words "the Chancellor", the words "the State Government" shall be substituted.</p> <p>2. In section 12, in sub-section (1), in clause (b), for the words "the Chancellor", the words "the State Government" shall be substituted.</p> <p>3. In section 16, in sub-section (1), under the heading "Class II - Ordinary Members", in paragraph (C), in clause (i), in sub-clause (a), for the words "the Chancellor", the words "the State Government" shall be substituted.</p> <p>4. In section 19, in sub-section (1), in clause (xi), for the words "the Chancellor", the words "the State Government" shall be substituted.</p> <p>5. In section 74, in sub-section (1), for the words "the Chancellor", the words "the State Government" shall be substituted.</p>
8.	The Krantiguru Shyamji Krishna Verma Kachchh University Act, 2003 (Guj. 5 of 2003)	Amendment of section 10 of Guj. 5 of 2003.	<p>1. In section 10,-</p> <p>(i) In sub-section (1), the words "the Chancellor in consultation with" shall be deleted;</p> <p>(ii) in sub-section (3), for the words "and shall recommend to the Chancellor", the words "and shall recommend to the State Government" shall be substituted;</p>

		<p>Amendment of section 12 of Guj. 5 of 2003.</p> <p>Amendment of section 16 of Guj. 5 of 2003.</p> <p>Amendment of section 19 of Guj. 5 of 2003.</p>	<p>(iii) in sub-section (6), for words "the Chancellor", the words "the State Government" shall be substituted;</p> <p>(iv) in sub-section (7), for the words "the Chancellor", the words "the State Government" shall be substituted.</p> <p>2. In section 12, in sub-section (1), in clause (b), for the words "the Chancellor", the words "the State Government" shall be substituted.</p> <p>3. In section 16, in sub-section (1), under the heading "Class II - Ordinary Members", in paragraph (B), in clause (i), in sub-clause (a), for the words "the Chancellor", the words "the State Government" shall be substituted.</p> <p>4. In section 19, in sub-section (1), in clause (xi), for the words "the Chancellor", the words "the State Government" shall be substituted.</p>
9.	The Gujarat Agricultural Universities Act, 2004 (Guj. 5 of 2004).	Amendment of section 10 of Guj. 5 of 2004.	<p>In section 10,-</p> <p>(i) in sub-section (1), in clause (a), the words "the Chancellor in consultation with" shall be deleted;</p> <p>(ii) in sub-section (3), for the words "the Chancellor", the words "the State Government" shall be substituted;</p> <p>(iii) in sub-section (4), in the proviso, in clause (b), for the words "the Chancellor", the words "the State Government" shall be substituted;</p> <p>(iv) in sub-section (6), for the words "the Chancellor", the words "the State Government" shall be substituted;</p>

			(v) in sub-section (8), for the words "the Chancellor" and "his opinion", the words "the State Government" and "its opinion" shall be substituted respectively.
10.	The Shree Somnath Sanskrit University Act, 2005 (Guj. 25 of 2005).	Amendment of section 20 of Guj. 8 of 2005.	In section 20, in sub-section (1),- (i) clause (iv) shall be deleted; (ii) in clause (v), for the words "two", the words "four eminent and" shall be substituted.
11.	The Gujarat Technological University Act, 2007 (Guj. 20 of 2007).	Amendment of section 11 of Guj. 20 of 2007.	In section 11,- (i) in sub-section (1), the words "the Chancellor in consultation with" shall be deleted; (ii) in sub-section (3), for the words "the Chancellor", the words "the State Government" shall be substituted; (iii) in sub-section (7), for the words "the Chancellor", the words "the State Government" shall be substituted; (iv) in sub-section (8), for the words "the Chancellor" occurring at two places, the words "the State Government" shall be substituted.
12.	The Kamdhenu University Act, 2009 (Guj. 9 of 2009)	Amendment of section 12 of Guj. 5 of 2009.	1. In section 12,- (i) in sub-section (1), in clause (a), the words "the Chancellor in consultation with" shall be deleted; (ii) in sub-section (3), for the words "the Chancellor", the words "the State Government" shall be substituted; (iii) in sub-section (6), for the words "the Chancellor" wherever they occur, the words "the State Government" shall be substituted; (iv) in sub-section (7), for the words "the Chancellor", the words "the State Government" shall be substituted; (v) in sub-section (8), in clause (v), for the words "the

		Amendment of section 21 of Guj. 5 of 2009	Chancellor”, the words “the State Government” shall be substituted; (vi) in sub-section (9), for the words “the Chancellor”, the words “the State Government” shall be substituted. 2. In section 21, in sub-section (1), for the words “The Chancellor”, the words “The State Government” shall be substituted.
13.	The Children’s University Act, 2009 (Guj. 15 of 2009).	Amendment of section 12 of Guj. 15 of 2009. Amendment of section 13 of Guj. 15 of 2009.	1. In section 12,- (i) in sub-section (1), the words “in consultation with the Chancellor” shall be deleted; (ii) in sub-section (3), for the words “the Chancellor”, the words “the State Government” shall be substituted; (i) in sub-section (5), for the words “the Chancellor” the words “the State Government” shall be substituted; (ii) in sub-section (6), the words “in consultation with the Chancellor” shall be deleted. 2. In section 13,- (i) in sub-section (4), for the words “the Chancellor” occurring at two places. the words “the State Government” shall be substituted; (ii) in sub-section (5), the words “the Chancellor in consultation with” shall be deleted.
14.	The Indian Institute of Teacher Education, Gujarat Act, 2010 (Guj. 8 of 2010).	Amendment of section 12 of Guj. 8 of 2010.	1. In section 12,- (i) in sub-section (1), the words “in consultation with the Chancellor” shall be deleted; (ii) in sub-section (3), for the words “the Chancellor”, the words “the State Government” shall be substituted; (iii) in sub-section (5), for the words “the Chancellor”, the words “the State Government” shall be substituted;

		Amendment of section 13 of Guj. 8 of 2010.	(iv) in sub-section (6), the words “in consultation with the Chancellor” shall be deleted.
		Amendment of section 38 of Guj. 8 of 2010.	2. In section 13,- (i) in sub-section (4), for the words “the Chancellor” occurring at two places, the words “the State Government” shall be substituted; (ii) in sub-section (5), the words “the Chancellor in consultation with” shall be deleted. 3. In section 38, in sub-section (1), for the words “the Chancellor” occurring at two places, the words “the State Government” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

There are different provisions in different Universities Laws in so far as the appointment of the Vice-Chancellor or Pro-Vice-Chancellor is concerned. Similarly different provisions are also there so far as the resignation or the removal of the Vice-Chancellor is concerned. It is, therefore, considered necessary to have uniform provisions in all the University laws providing for appointment of Vice-Chancellor or Pro-Vice-Chancellor by the State Government and accordingly the amendments in the concerned laws have been proposed in the Bill. Amendments in the different laws are also proposed in order to have the appointment of the members of the Syndicate or the Senate by the State Government. Certain consequential amendments with regard to the resignation and removal of the Vice-Chancellor are also proposed in the Bill.

This Bill seeks to amend the certain University Laws to achieve the aforesaid objects.

Gandhinagar,

Dated the 20th March, 2013.

BHUPENDRASINH CHUDASAMA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 21st March, 2013.

C. J. GOTH,

Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT STATE SCHOOL SERVICE COMMISSION BILL, 2013.

GUJARAT BILL NO. 23 OF 2013.

A BILL

to establish a State School Service Commission for recruitment of teachers and headmasters in the registered private Secondary and Higher Secondary Schools including Primary Schools receiving grants-in-aid from the State Government and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat State School Service Commission Act, 2013.

Short title,
extent,
commencement
and application.

(2) It extends to the whole of the State of Gujarat.

(3) It shall apply to the Government-aided private Secondary, Higher Secondary and Primary Schools.

(4) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context other wise requires, --

- (1) (a) "Board" means the Gujarat Secondary and Higher Secondary Education Board established under the Gujarat Secondary and Higher Secondary Education Act, 1972; Guj. 18 of 1973.
- (b) "Chairman" means the Chairman of the Commission appointed under section 4;
- (c) "Commission" means the Gujarat State School Service Commission constituted under section 3;
- (d) "headmaster" means the head of the teaching staff of a school by whatever name designated;
- (e) "higher secondary education" shall have the meaning as defined by clause (hh) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972; Guj. 18 of 1973.
- (f) "higher secondary school" shall have the meaning as defined by clause (hhh) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972; Guj. 18 of 1973.
- (g) "member" means a member of the Commission and includes the Chairman;
- (h) "prescribed" means prescribed by rules made under section 16;
- (i) "primary education" shall have the meaning as defined by clause (15) of section 2 of the Gujarat Primary Education Act, 1947; Bom. LXI of 1947.
- (j) "primary school" shall have the meaning as defined by clause (17) of section 2 of the Gujarat Primary Education Act, 1947; Bom. LXI of 1947.
- (k) "regulations" means the regulations of the Commission made under section 17;
- (l) "school" means a recognised Government aided--
 - (i) primary school or educational institution or part or the department of such school or institution imparting instruction in primary education, or
 - (ii) secondary school or educational institution or part or the department of such school or institution imparting instruction in secondary education, or
 - (iii) higher secondary school or educational institution (other than a college) or part or the department of such school or institution imparting instruction in higher secondary education;

Guj.18
of 1973.

(m) "secondary education" shall have the meaning as defined by clause (u) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;

Guj.18
of 1973.

(n) "secondary school" shall have the meaning as defined by clause (v) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;

(o) "Secretary" means the Secretary of the Commission;

(p) "teacher" means an assistant teacher or any other person holding a teaching post in a school and includes the headmaster.

Bom.LXI
of 1947.
Guj.18
of 1973.

(2) Words and expressions used but not defined in this Act shall have the meanings respectively assigned to them under the Gujarat Primary Education Act, 1947 or the Gujarat Secondary and Higher Secondary Education Act, 1972.

3. (1) For the purpose of selection of persons to the posts of teachers and headmasters in the grant-in-aid private schools, the State Government shall, by notification in the *Official Gazette*, constitute a Commission by the name of the "Gujarat State School Service Commission" with effect from such date as it may specify in the notification.

Constitution
of Commission.

(2) (i) The Commission shall consist of three members out of whom one shall be the Chairman.

(ii) Of the three members as aforesaid, one shall be a person who, not being an educationist, occupies or has occupied, in the opinion of the State Government, a position of eminence in public life or in judicial or administrative service, and the remaining members shall have teaching experience, either as a teacher of a University or as a principal of a college for a period of not less than ten years, or as a teacher other than principal of a college, or as a headmaster, for a period of not less than fifteen years.

4. (1) (i) The Chairman and other members shall be appointed by the State Government.

(ii) The Chairman and other members shall hold office for a term of four years:

Appointment
and terms and
conditions of
service of a
Chairman and
members.

Provided that a person who has held office of the Chairman or other member shall, on the expiration of the term of his office, be eligible for further appointment as the Chairman or the member:

Provided further that no person who has attained the age of sixty-two years shall be eligible to hold office as the Chairman or the member.

- (2) If the office of the Chairman or any other member becomes vacant by reason of resignation or otherwise or if the Chairman is, by reason of absence or for any other reason, unable to perform the duties of his office, then, until a Chairman or other member is appointed under sub-section (1) or until the Chairman or the member resumes his duties, as the case may be, the duties of the Chairman or the other member, as the case may be, shall be performed by such other member as the State Government may appoint in this behalf.
- (3) The Chairman or any other member may resign his office by writing under his hand addressed to the State Government, but he shall continue in the office until the resignation is accepted by the State Government.
- (4) (i) The Chairman shall be a whole-time salaried officer and the other members shall be honorary.
- (ii) The salary of the Chairman and the honorarium of the other members shall be such as may be determined by the State Government.
- (iii) Subject to the foregoing provisions of this sub-section, the other terms and conditions of office of the Chairman and other members shall be such as may be prescribed.

**Disqualifications
of member.**

5. The State Government may, after making an inquiry in such manner as may be prescribed, remove the Chairman or any member from his office if he –

- (i) is adjudged insolvent; or
- (ii) is of unsound mind and stands so declared by the competent court; or
- (iii) is convicted of any offence which, in the opinion of the State Government involves moral turpitude; or
- (iv) is found guilty of misconduct in discharge of his duties; or
- (v) has become physically or mentally incapable of discharging duties as a Chairman or the member.

**Staff of
Commission.**

6. (1) The staff of the Commission shall consist of –

- (i) Secretary, who shall be appointed by the State Government, and
- (ii) such other employees as the Commission may, with the previous approval of the State Government, appoint.

(2) The salary of the Secretary and other employees of the Commission shall be such as may be determined by the State Government.

(3) The other terms and conditions of service---

- (i) of the Secretary shall be such as may be prescribed, and
- (ii) of the other employees of the Commission shall be such as may be provided for by regulations.

7. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the Commission to select persons for appointment to the posts of teachers in schools. **Functions of Commission.**

(2) It shall be the duty of the Commission to advise the State Government on such matters as may be referred to it by the State Government.

8. (1) The procedure for selection of persons for appointment to the posts of teachers shall be such as may be prescribed. **Manner and scope of selection of persons and procedure for conduct of business of Commission.**

(2) The manner in which the Commission shall conduct its business shall be such as may be prescribed by regulations.

9. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, no appointment to the posts of teachers in a school shall be made by the managing committee, by whatever name called, except on the recommendation of the Commission. **No appointment of teachers except on recommendation of Commission.**

(2) Any appointment of a teacher made on or after the commencement of this Act in contravention of the provisions of this Act shall be invalid and shall have no effect and the teacher so appointed shall not be a teacher within the meaning of clause (p) of section 2.

10. Notwithstanding anything contained in this Act, the terms and conditions of service of teachers of a school appointed immediately before the commencement of this Act shall not be varied to the disadvantage of such teachers in so far as such terms and conditions relating to the appointment of such teachers to the posts held by them immediately before the commencement of this Act. **Protection of Teachers.**

11. The Commission may call for any record, report or other information from any school or the Board if, in its opinion, such record, report or other information is necessary for efficient discharge of its functions, and the school or the Board, as the case may be, shall furnish such record, report or other information to the Commission. **Commission to call for records, etc.**

12. The Commission shall submit annually to the State Government a report as to the activities carried out by it in performance of its duties and as soon as may be after the receipt of such report, the State Government shall cause a copy thereof to be laid before the State Legislature. **Report of Commission.**

45 of 1860. 13. The Chairman and other members and persons appointed under this Act shall, while acting or purporting to act under this Act, or any rules or regulations made there under be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. **Members, etc. to be public servants.**

Acts and proceedings not to be invalid by reason of vacancy.

14. No act or proceedings of the Commission shall be invalid by reason of any vacancy in the office of the Chairman or any other member of the Commission.

Act not to apply in relation to certain schools.

15. The provisions of this Act shall not apply to –

- (i) a school established and administered by a minority, whether based on religion or language, or
- (ii) a school under any trust, established and administered by a minority, whether based on religion or language, or
- (iii) a school not receiving any financial assistance from the State Government, or
- (iv) a school established, owned or controlled by the State Government or local authority.

Power to make rules.

16. (1) The State Government may, by notification in the *Official Gazette*, make rules not inconsistent with this Act, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

- (i) The other terms and conditions of office of the Chairman and members under clause (iii) of sub-section (4) of section 4;
- (ii) the manner in which an inquiry is to be held for removal of the Chairman or any other member under section 5;
- (iii) the other terms and conditions of service of the Secretary under clause (i) of sub-section (3) of section 6;
- (iv) the procedure for selection of persons for appointment to the posts of teachers under sub-section (1) of section 8;
- (v) any other matters which may be, or is required to be, prescribed by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to make regulations.

17. (1) The Commission may, with the previous approval of the State Government, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder, for discharging of its functions under this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:--

- (i) the other terms and conditions of service of the employees of the Commission under clause (ii) of sub-section (3) of section 6;
- (ii) the manner for the conduct of business of the Commission under sub-section (2) of section 8;
- (iii) any other matter which may be, or is required to be, prescribed by regulations.

18. In the performance of its functions under this Act, the Commission shall be bound by such directions on questions of policy as the State Government may give in writing to it from time to time in conformity with the provisions of this Act.

Power of State Government to give directions.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid as soon as may be after it is made before the State Legislature.

20. (1) If the State Government is of the opinion that the Commission has failed to discharge its functions in accordance with the provisions of this Act, the State Government may, by an order published in the *Official Gazette*, and stating the reasons therefore, dissolve the Commission with effect from such date as may be specified in the order.

Dissolution of Commission.

(2) Upon the dissolution of the Commission under sub-section (1), all the members of the Commission shall be deemed to have vacated their offices with effect from the date of such dissolution.

(3) The State Government may, at any time after the dissolution of the Commission under sub-section (1), reconstitute the Commission in accordance with the provisions of this Act.

21. Each of the Acts specified in the second column of the Schedule shall be amended in the manner and to the extent specified against it in the third column thereof.

Amendment of Bom. LXI of 1974 and Guj. 18 of 1973.

SCHEDULE

Sr. No.	Short title.	Extent of Amendment.	
૧	૨		૩
1.	The Gujarat Primary Education Act, 1947 (Bom. LXI of 1947).	Insertion of new section 23B in Bom. LXI of 1947.	<p>After section 23A, the following section shall be inserted, namely:-</p> <p>“23B. Notwithstanding anything contained in this Act, the selection of teachers and headmasters of registered Government aided private primary schools shall be made by the Gujarat State School Service Commission constituted under section 3 of the Gujarat State School Service Commission Act, of 2013.”.</p> <p>Selection of teachers and headmasters in Government aided private primary schools.</p>
૨.	The Gujarat Secondary and Higher Secondary Education Act, 1972 (Guj. 18 of 1973).	<p>Amendment of section 17 of Guj. 18 of 1973.</p> <p>Amendment of section 34 of Guj. 18 of 1973.</p> <p>Substitution of section 35 of Guj. 18 of 1973.</p>	<p>1. In section 17, in clause (26), after the words “method of selection”, the bracket and words “(except for headmasters and teachers of registered Government aided private secondary and higher secondary schools)” shall be inserted.</p> <p>2. In section 34, in sub-section (2), after the word “recruitment”, the bracket and words “(except for headmasters and teachers of registered Government aided private secondary and higher secondary schools)” shall be inserted.</p> <p>3. For section 35, the following section shall be substituted, namely:-</p> <p>“35. The selection of teachers and headmasters of registered Government aided private secondary and higher secondary schools shall be made by the Gujarat State School Service Commission constituted under section 3 of the Gujarat State School Service Commission Act, of 2013.”.</p> <p>Selection of teachers and headmasters.</p>

Guj of 2013.

Guj of 2013.

STATEMENT OF OBJECTS AND REASONS

Majority of secondary and higher secondary schools in the State of Gujarat are Government-aided schools. Same is the case with the primary schools. With a view to improving the quality of teachers recruited in the grant-in-aid schools, a centralised arrangement in the form of an independent Commission is felt necessary. Also with a view to helping the aspiring candidates to get teacher's job by applying at a single point, centralized mechanism for continuous recruitment of teachers against the vacancies in grant-in-aid schools is necessary. In order to provide for such mechanism, it is proposed to set up a Commission by name the "Gujarat State School Service Commission" for teachers' recruitment under this Bill.

The following notes on clauses explain the important provisions of the Bill:

Clause 1.- This clause provides for short title, extent, commencement and application of the Act.

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause provides for constitution of the Gujarat State School Service Commission.

Clauses 4 and 5.- These clauses provide for appointment, salary and allowances of Chairman, honorarium of members, terms and conditions of service and disqualifications of members of the Commission.

Clause 6.- This clause provides for appointment, terms and conditions of service and salary and allowances of Secretary and other employees of the Commission.

Clauses 7 and 8.- These clauses provide for functions of the Commission of selection of teachers for private Government aided schools, to advise the State Government. on the matters referred to it by the State Government.

Clause 9.- This clause prohibits for appointment of teachers by a managing committee of a private Government aided schools except on the recommendation of Commission; and also provides that any appointment made in contravention of the provisions of this Act shall be invalid and shall have no effect.

Clause 10.- This clause provides that the terms and conditions of the services of the existing teachers of private Government aided schools shall not be varied to the disadvantage to the service conditions prescribed under this Act.

Clause 11.- This clause provides for the power of Commission to call for records, report or other information necessary for discharging its function, from the schools and the Board.

Clause 12.- This clause provides that the Commission shall submit its annual report as to the activities carried out by it in performance of its duty and the laying it before State Legislature.

Clause 13.-This clause provides that the Chairman and other members and persons appointed under this Act shall be the public servants.

Clause 14.-This clause provides that no act or proceeding of the Commission shall be invalid by reason of any vacancy in the office of the chairman or any other member of the Commission.

Clause 15.-This clause provides for non-application of the provisions of this Act to schools established and administered by minority based on religion or language, or a trust established and administered by minority based on religion or language, or a school not receiving financial assistance from the State Government, or schools established, owned or controlled by the State Government or local authority.

Clause 16.- This clause provides that the State Government shall make rules for carrying out the purposes of this Act.

Clause 17.- This clause provides that the Commission shall make regulations with the previous approval of the State Government.

Clause 18.-This clause provides that the State Government shall have power to give directions to the Commission on questions of policy in conformity with the provisions of this Act.

Clause 19.- This clause provides for the power of the State Government to remove the difficulties not inconsistent with the provisions of this Act arising within three years from the commencement of this Act.

Clause 20.- This clause provides for power of the State Government to dissolve the Commission if in the opinion of the State Government, the Commission has failed to discharge its functions.

Clause 21.- This clause provides for certain amendments in the Gujarat Primary Education Act, 1947 and the Gujarat Secondary and Higher Secondary Education Act, 1972.

BHUPENDRASINH CHUDASAMA,

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Gujarat State School Service Commission.

Clause 4 of the Bill provides for the appointment and terms and conditions of the service of the Chairman and members of the Commission.

Clause 6 of the Bill provides for the appointment of the Secretary and other employees of the Commission.

The Bill, if enacted and brought into operation, the expenditure involved would be worked out separately and provision for the expenditure will be made thereafter.

BHUPENDRASINH CHUDASAMA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (4) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3. - This clause empowers the State Government to constitute, by notification in the *Official Gazette*, a Commission by the name of the 'Gujarat State School Service Commission' with effect from the date as it may specify in the notification.

Clause 4. - Para (iii) of sub-clause (4) of this clause empowers the State Government to prescribe by rules, the other terms and conditions of the office of the Chairman and other members.

Clause 5. - This clause empowers the State Government to prescribe by rules, the manner in which an inquiry shall be made against the Chairman and the members of Commission.

Clause 6. - (i) Para (i) of sub-clause (3) of this clause empowers the State Government to prescribe by rules, the other terms and conditions of service of Secretary;

(ii) para (ii) of sub-clause (3) of this clause empowers the Commission to prescribe by regulations, the other terms and conditions of service of the other employees of the Commission.

Clause 8.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the procedure for selection of persons for appointment to the post of teachers;

(ii) sub-clause (2) of this clause empowers the Commission to prescribe by regulations, the manner in which the business of the Commission shall be conducted.

Clause 16. - This clause empowers the State Government to make rules, by notification in the *Official Gazette*, generally for carrying out the purposes of the Act.

Clause 17. - This clause empowers the Commission, with the previous approval of the State Government, to make regulations, not inconsistent with the provisions of the Act or the rules made thereunder for discharging the functions of the Commission.

Clause 19. - This clause empowers the State Government, by order published in the *Official Gazette*, for removing difficulties arises in giving effect to the provisions of this Act arising within three years from the commencement of this Act.

Clause 20. - This clause empowers the State Government to dissolve the Commission, by an order published in the *Official Gazette*, stating the reasons therefore.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,

Date the 20th March, 2013.

BHUPENDRASINH CHUDASAMA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 21st March, 2013.

C. J. GOTH,

Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT LOKAYUKTA AAYOG BILL, 2013.

GUJARAT BILL NO. 24 OF 2013.

A BILL

to provide for the establishment of an Institution of Lokayukta Aayog to inquire and investigate into the allegations against public functionaries in the State of Gujarat and to safeguard the dignity and prestige of public functionaries against false and frivolous allegations and for matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Lokayukta Aayog Act, 2013.
- (2) It extends to the whole of the State of Gujarat, and it applies also to the public functionaries outside the State of Gujarat.

Short title,
extent,
application and
commencement.

- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (1) "action" means action taken whether before or after the commencement of this Act by way of decision, recommendation or finding or in any other manner and includes failure to act, and all other expressions connoting action shall be construed accordingly;
- (2) "allegation" in relation to a public functionary and with reference to any specific action taken by him means any affirmation that such public functionary in his capacity as a public functionary-
 - (i) is guilty of corruption, or lack of integrity; or
 - (ii) was actuated in the discharge of his functions by personal interest or corrupt motives; or
 - (iii) has abused his position to obtain any gain or favour to himself or to any other person;
- (3) "Bench" means a bench constituted in accordance with section 9;
- (4) "competent authority" means-
 - (a) in the case of a Minister, the Council of Ministers, and
 - (b) in the case of any other public functionary, such authority as may be prescribed;
- (5) "Governor" means the Governor of the State of Gujarat acting on the aid and advice of the Council of Ministers;
- (6) "Lokayukta" means a person appointed as a Lokayukta under section 3;
- (7) "Lokayukta Aayog" means Institution of the Lokayukta Aayog comprising of Lokayukta and Up-Lokayuktas appointed under section 3;
- (8) "Minister" means a member of the Council of Ministers for the State of Gujarat by whatever name called, that is to say the Chief Minister, a Minister, Minister of State and Deputy Minister and includes a Parliamentary Secretary to the Chief Minister;
- (9) "prescribed" means prescribed by rules made under section 26;
- (10) "public functionary" means, -
 - (a) a person who holds or has held an office of -
 - (i) a Minister;

- (ii) the Chairman or the Vice-Chairman of a Government Company ^{1 of 1956.} within the meaning of section 617 of the Companies Act, 1956 in which not less than fifty one per cent. of its paid up share capital is held by the State Government and the Chairman or the Vice-Chairman of a Company which is subsidiary of a company in which not less than fifty one per cent. of its paid up share capital is held by the State Government;
- (iii) the Chairman or the Vice-Chairman of a Corporation established by or under the Bombay Act or Gujarat Act and owned or controlled by the State Government;
- (iv) the Vice-Chancellor of a University established by law in the State of Gujarat;
- (v) the Mayor or the Deputy Mayor of a Municipal Corporation constituted under the Gujarat Provincial Municipal Corporations Act, 1949; ^{Bom. LIX of 1949.}
- (vi) the President or the Vice-President of a municipality constituted under the Gujarat Municipalities Act, 1963; ^{Guj. 34 of 1964.}
- (vii) the Sarpanch or the Up-sarpanch of a village panchayat, the President or the Vice-President of a taluka panchayat or a district panchayat constituted under the Gujarat Panchayats Act, 1993; ^{Guj. 18 of 1993.}
- (viii) the Chairman of any Committee constituted under the Gujarat Provincial Municipal Corporations Act, 1949 or the Gujarat Municipalities Act, 1963 or the Gujarat Panchayats Act, 1993; <sup>Bom. LIX of 1949.
Guj. 34 of 1964.
Guj. 18 of 1993.</sup>
- (ix) the Councilor who is a member of any committee constituted under the Gujarat Provincial Municipal Corporations Act, 1949 or the Gujarat Municipalities Act, 1963; ^{Guj. 34 of 1964.}
- (x) the member who is elected to any committee constituted under the Gujarat Panchayats Act, 1993; ^{Guj. 18 of 1993.}
- (b) a person who is or has been in the service or pay of the State Government, Local Authority, University, Board or Corporation owned and controlled by the State Government or the Government Company;
- (11) "public servant" shall have the same meaning as assigned to it in Twelfth description under section 21 of the Indian Penal Code. ^{45 of 1860.}

- (12) "*Up-Lokayukta*" means a person appointed as *Up-Lokayukta* under section 3.

Appointment of Lokayukta and Up-Lokayukta. 3. (1) For the purpose of conducting investigations and enquiries in accordance with the provisions of this Act, the Governor shall, by warrant under his hand and seal and, on the recommendations of a Selection Committee as provided below, appoint a person to be known as the *Lokayukta* and not more than four other persons each to be known as *Up-Lokayukta*:

Provided that not more than half of such *Up-Lokayuktas* shall be judicial members and the remaining shall be administrative members.

- (2) The Selection Committee shall comprise of:

- (i) The Chief Minister – Chairperson;
- (ii) The Speaker of the Gujarat Legislative Assembly;
- (iii) A minister from the council of ministers, to be nominated by the Chief Minister;
- (iv) The Leader of the Opposition in the Gujarat Legislative Assembly and should there be a vacancy in that position then a person elected in this behalf by the members of the Opposition in that House in such manner as the Speaker may direct;
- (v) One Judge of the High Court of Gujarat, to be nominated by the Chief Justice of the High Court in consultation with the collegiums of five Senior Judges of the High Court;
- (vi) Vigilance Commissioner, Gujarat State.

- (3) The Selection Committee while making recommendation will give due regard to representation of the SC/ST in the Aayog.

- (4) No appointment of a Lokayukta or *Up-Lokayukta* shall be invalid merely by reason of absence of any member of or due to any vacancy in the Selection Committee:

Provided however that the Selection Committee may, if it deems necessary, choose to appoint a Search Committee, comprising of atleast three and not more than five eminent persons from those who have been Chief Justice of a High Court, State Election Commissioner, Vigilance Commissioner, Chief Secretary to the Government of Gujarat, Secretary to the Government of India, Judges of Supreme Court or of High Courts to recommend a panel of suitable persons twice the number of vacancies referred to the Search Committee.

- (5) The Lokayukta shall be a person who is or has been a Judge of the Supreme Court of India or Chief Justice of a High Court in a substantive capacity.

(6) The Up-Lokayukta (Judicial) shall be a person who has held the office of the Judge of a High Court in a substantive capacity. The Up-Lokayukta (Administrative) shall be a person with experience in administrative or quasi-judicial matters, and shall have functioned as Secretary or Additional Secretary to the Government of India, or as Chief Secretary or Additional Chief Secretary to the Government of Gujarat.

(7) A person appointed as the Lokayukta or an Up-Lokayukta shall, before entering upon his office, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation in the form set out for the purpose in the Schedule.

(8) If for any reason the Lokayukta is unable to discharge his functions, the Up-Lokayukta or if there are more than one Up-Lokayukta, the senior among them may discharge the functions of the Lokayukta. Seniority shall be computed from the date of appointment of Up-Lokayuktas and, Up-Lokayukta who is a Judicial member shall always be deemed to be senior to the Up-Lokayukta who is an Administrative member irrespective of age and the date of appointment to the office of Up-Lokayukta.

4. (1) The Lokayukta and Up-Lokayukta shall not be a Member of the Parliament or a Member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as the Lokayukta or Up-Lokayukta) or be connected with any political party or shall not carry on any business or practice any profession and accordingly, before he enters upon his office, a person appointed as a Lokayukta or Up-Lokayukta shall,-

- (i) if, he is a Member of Parliament or of the Legislature of any State, resign such membership; or
- (ii) if, he holds any office of trust or profit, resign from such office; or
- (iii) if, he is connected with any political party, sever his connection with it; or
- (iv) if, he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or
- (v) if, he is practicing any profession, suspend practice of such profession.

(2) A person shall be disqualified for appointment as a Lokayukta or Up-Lokayukta or for continuing to hold any such post if any member of his family has entered into any commercial contract with the State Government and the contract is subsisting or has any other dealing with the State Government relating to any business of a commercial nature.

Explanation.- For the purpose of sub-section (2), the expression "family" means wife, husband, son, daughter, and son's wife.

(3) A person shall be disqualified for appointment as Up-Lokayukta (Administrative) if he has been dismissed from the service of the Government or has been convicted and sentenced to imprisonment for a criminal offence.

Term of office and conditions of service of Lokayukta and Up-Lokayukta. 5. (1) Every person appointed as a Lokayukta or Up-Lokayukta shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of seventy-two years whichever is earlier :

Provided that —

- (i) the Lokayukta or Up-Lokayukta may, by writing under his hand addressed to the Governor, resign from his office,
- (ii) the Lokayukta or Up-Lokayukta may be removed from office in the manner specified in section 6.

(2) On ceasing to hold office, the Lokayukta and every Up-Lokayukta shall be ineligible for —

- (i) re-appointment as the Lokayukta or an Up-Lokayukta;
- (ii) any assignment or appointment which is required by law to be made by the Governor of Gujarat under his hand and seal;
- (iii) further employment to any other office of profit under the Government of Gujarat.

(3) There shall be paid to the Lokayukta and to the Up-Lokayukta such salary as may be prescribed.

(4) The allowances and pension payable to and other conditions of service of the Lokayukta and Up-Lokayukta shall be such as may be prescribed :

Provided that in prescribing the allowances and pension payable to and other conditions of service of the Lokayukta or Up-Lokayukta, regard shall be had to the allowances and pension payable to and other conditions of service of the Chief Justice of the High Court and of a Judge of the High Court, respectively:

Provided further that the allowances and pension payable to and other conditions of service of the Lokayukta or Up-Lokayukta shall not be varied to his disadvantage after his appointment.

(5) The salaries, allowances and pension payable to or in respect of Lokayukta and Up-Lokayukta shall be the expenditure charged on the Consolidated Fund of the State.

6. The Lokayukta or Up-Lokayukta shall not be removed from his office except by an order made by the Governor on the ground of proved misbehavior or incapacity after an inquiry made by the Chief Justice of the High Court or, as the case may be, by such other Judge of the High Court as the Chief Justice may nominate in this behalf, in which the Lokayukta or Up-Lokayukta had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

7. (1) Subject to the provisions of this Act, the Lokayukta Aayog may investigate any action which is taken by, or with approval of a public functionary in any case where a complaint involving an allegation is made in respect of such action or such action can be or could have been in the opinion of the Lokayukta Aayog the subject of an allegation.

Removal of Lokayukta or Up-Lokayukta.

Matters which may be investigated by Lokayukta Aayog.

- 60 of 1952. (2) No matter in respect of which a complaint is made under this Act shall be referred to a Commission for inquiry under the Commissions of Inquiry Act, 1952 except on the recommendation or with the concurrence of the Lokayukta Aayog:

Provided that nothing in this sub-section shall prevent the State Government from referring the matter to such Commission for inquiry if in its opinion the matter is exceptionally a matter of definite public importance.

(3) Notwithstanding anything contained in sub-section (1), the Lokayukta Aayog shall, before proceeding to investigate any action, make such preliminary inquiry as it deems fit for ascertaining whether there exist reasonable ground for conducting the investigation and if it finds that there exist no such grounds, it shall record a finding to that effect and thereupon the matter shall be closed and the complainant shall be informed accordingly.

(4) An investigation under this section of an action taken by or with the approval of a public functionary shall not be affected merely on the ground that subsequent to such action such public functionary ceased to hold the office in which the action was taken by him or with his approval or ceased to be such public functionary.

Transaction and disposal of business by Lokayukta Aayog. 8. (1) The business of the Lokayukta Aayog shall be transacted in accordance with the provisions of this Act and as far as possible, be transacted unanimously.

(2) The Lokayukta Aayog may by unanimous decision regulate the procedure for the transaction of business as also allocation of its business amongst the benches of the Lokayukta Aayog.

(3) Subject to provisions of sub section (2), if there is difference of opinion on any matter within a bench, such matter shall be decided by the majority opinion and if a bench is equally divided then in that case, the bench shall refer the matter to Lokayukta on administrative side for being referred to the Lokayukta or other Up-Lokayukta, as the case may be.

(4) The Lokayukta shall be the administrative head of the Lokayukta Aayog.

Explanation.- For the purposes of this section, the Lokayukta Aayog shall mean Lokayukta Aayog comprising of Lokayukta and at least one Up-Lokayukta (Judicial) and at least one Up-Lokayukta (Administrative).

Constitution of benches. 9. (1) Any complaint or matter received by the Lokayukta Aayog shall only be inquired into or investigated by a bench of the Lokayukta Aayog.

(2) The Lokayukta Aayog shall function in benches of not less than two members. In consideration of work load, importance of issues at hand and other objective criteria, benches may comprise of two, three or five members:

Provided that each bench shall have atleast one judicial member and one administrative member :

Provided further that in respect of or during any investigation or inquiries in relation to a complaint if any allegation is also made against the Chief Minister either directly or in conjunction with any other public functionary, the bench shall comprise of five members.

(3) Every Bench shall be presided over by the senior most judicial member.

(4) The Benches of the Lokayukta Aayog shall ordinarily sit at Gandhinagar and at such other places as may be prescribed.

(5) On an application for transfer made by the complainant or the public functionary, the Lokayukta, after giving an opportunity of being heard to the complainant or to the public functionary, as the case may be, may transfer any case pending before one Bench for disposal or investigation to any other Bench.

10. (1) The Lokayukta Aayog shall not investigate any action,-

Matter not
subject to
investigation.

(a) in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850 with its prior concurrence, or

37 of 1850.

(b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952 on its recommendation or with its prior concurrence or by the State Government under the proviso to sub-section (2) of section 7, or

60 of 1952.

(c) in respect of a matter if a process including appeal, revision, review or other proceeding is pending before any tribunal, Court, officer or other competent authority under any other law for the time being in force, or

(d) in respect of a matter which has been inquired into under the enactments referred to in clauses (a) or (b) or (c) and has been finally decided by a competent court.

(2) The Lokayukta Aayog shall not investigate any complaint which is excluded from its jurisdiction by virtue of a notification issued under section 23.

(3) The Lokayukta or an Up-Lokayukta shall not be a member of the Bench inquiring or investigating into any matter concerning any person if he has any bias in respect of such matter or person and if any dispute arises in this behalf, the Governor shall, on an application made by the party aggrieved, obtain in such manner as may be prescribed, the opinion of the Chief Justice of the High Court and decide the dispute.

(4) The Lokayukta Aayog shall not inquire into any complaint if the complaint is made after the expiry of five years from the date on which the action mentioned in such complaint is alleged to have been taken or if the complaint is made after a period of one year from the date of the complainant's knowledge of such cause for action.

11. (1) Subject to the provisions of this Act, a complaint stating the allegations may be made under this Act to the Lokayukta Aayog by any person other than a public servant, having personal knowledge of such allegation, in his capacity as such :

Provisions
relating to
complaints.

Provided that, where the person aggrieved is dead or is for any reason unable to act for himself, the complaint may be made by any person who in law represents his estate or, as the case may be, by any other person who is authorized by him in this behalf.

(2) Every complaint shall be made in such form and shall be accompanied by such affidavits as may be prescribed.

(3) Notwithstanding anything contained in any other enactment, any letter written to the Lokayukta Aayog by a person in a police custody or in a jail or in any asylum or other place for insane persons, shall be forwarded to the addressee unopened and without delay by the police officer or other person in charge of such jail, asylum or other place and the Lokayukta Aayog may, if satisfied that it is necessary so to do, treat such letter as a complaint made in accordance with the provisions of sub-section (2).

(4) The complainant shall deposit in such manner and with such authority or agency as may be prescribed a sum of two thousand rupees to be available for disposal under section 24:

Provided that the Lokayukta Aayog may for sufficient cause to be recorded in writing exempt a complainant from the requirement of depositing the sum under this section.

(5) Notwithstanding anything contained in section 12 or any other provision of this Act, every person who willfully or maliciously makes any false allegations in a complaint under this Act shall, on conviction be punished with imprisonment for a term not exceeding six months, and shall also be liable to fine of Rs. 25,000 (twenty-five thousand rupees).

(6) The offence punishable under sub-section (5) shall be cognizable.

12. (1) Where the Lokayukta Aayog proposes, after making such preliminary inquiry as it deems fit to conduct any investigation under this Act, it -

Procedure in
respect of
investigations.

(i) shall forward a copy of the complaint or in the case of any investigation which it proposes to conduct on his own motion, a statement setting out the grounds therefor to the public functionary concerned and the competent authority concerned,

(ii) shall afford to the public functionary concerned an opportunity to offer his comments on such complaint or statement, and

- (iii) may make such orders as to the safe custody of documents relevant to the investigation, as it deems fit.

(2) Every such investigation shall be conducted in private and, in particular the identity of the complainant and of the public functionary affected by the investigation and the proceedings, including evidence collected, of the Lokayukta Aayog shall not be disclosed to the public or the press or published in any manner whether before, during or after the investigation:

Provided that, the Lokayukta Aayog may conduct any investigation relating to a matter of definite public importance in public, if it, for reasons to be recorded in writing, thinks fit to do so.

(3) Every investigation or inquiry shall be completed within a period of six months.

(4) Save as aforesaid, the procedure for conducting any such investigation shall be such as the Lokayukta Aayog considers appropriate in the circumstances of the case.

(5) The Lokayukta Aayog may, in its discretion, refuse to investigate or cease to investigate any complaint, if in its opinion-

- (a) the complaint is frivolous or vexatious, or is not made in good faith; or
- (b) there are no sufficient grounds for investigating or as the case may be, for continuing the investigation; or
- (c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

(6) In any case where the Lokayukta Aayog decides not to entertain a complaint or to discontinue any investigation in respect of a complaint, it shall record the reasons therefor and communicate the same to the complainant and the public functionary concerned.

(7) The conduct of an investigation under this Act in respect of any action shall not affect such action, or any power or duty of any public functionary to take further action with respect to any matter subject to the investigation.

(8) Whoever discloses to the public or to the press any information or publishes such information in contravention of the provisions of this section shall, on conviction, be punished with imprisonment for a term which may extend to two years and shall also be liable to fine of rupees two lakhs.

(9) If, at any stage of the proceeding, the Lokayukta Aayog —

- (a) considers it necessary to inquire into the conduct of any person other than the prospective accused; or

- (b) is of opinion that the reputation of any person other than an accused is likely to be prejudicially affected by the inquiry,

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defense, consistent with the principles of natural justice.

Evidence. 13. (1) Subject to the provisions of this section, for the purpose of investigation (including the preliminary inquiry, before such investigation) under this Act, the Lokayukta Aayog may require any public servant or any other person who in its opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such document.

(2) For the purpose of any such investigation (including the preliminary inquiry), the Lokayukta Aayog shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person by issuing summons or warrants and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) such other matters as may be prescribed:

Provided that a warrant issued under sub-section (1) shall for all purposes, be deemed to be a warrant issued by a court under section 93 of the Code of Criminal Procedure, 1973.

2 of 1974.

(3) The Lokayukta Aayog shall have power to require any person subject to the provisions of sub-section (8) to furnish information on such points or matters as in the opinion of the Lokayukta Aayog may be useful for or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.

45 of 1860.

(4) The Lokayukta or the Up-Lokayukta or any Gazetted Officer specially authorized in this behalf by the Lokayukta Aayog may enter any building or place where it has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom, subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

2 of 1974.

45 of 1860. 2 of 1974. 2 of 1974. (5) The Lokayukta Aayog shall be deemed to be a Civil Court and when any offence as is described in section 175, section 178, section 179 or section 180 of the Indian Penal Code is committed in the view or presence of the Lokayukta Aayog, the Lokayukta may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of the Criminal Procedure, 1973.

45 of 1860. (6) Any proceeding before the Lokayukta Aayog shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

(7) Subject to the provisions of sub-section (8), no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to the State Government or any public servant, whether imposed by any enactment or by any rule under the enactment shall apply to the disclosure of information for the purpose of any investigation under this Act and the State Government or any public servant shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any rule under the enactment in legal proceedings.

(8) (i) No person shall be required or authorized by virtue of this Act to furnish any such information or answer any such question or produce an document,-

(a) as might prejudice the security or defense or international relations of India (including India's relations with the Government of any other country or with any international organization), or the investigation or detection of crime; or

(b) as might involve the disclosure of proceedings, other than the decision, of the Cabinet or Council of Ministers of the State Government or any committee thereof, if any;

and for the purpose of this sub-section, a certificate issued by the Chief Secretary certifying that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b), shall be binding and conclusive.

(ii) For the purpose of investigation under this Act, no person shall be compelled to give any evidence or produce any document, which he could not be compelled to give or produce in proceedings before a court.

14. (1) If after investigation of any action in respect of which a complaint involving an allegation has been made against a Minister or against a Minister in conjunction with any other public functionary, the Lokayukta Aayog is satisfied that such allegation can be substantiated either wholly or partly against the Minister, it shall, by a report in writing, communicate its findings, alongwith the relevant documents, materials and other evidence, to the Chief Minister.

Report of Lokayukta Aayog in case of the Minister.

(2) On receipt of the report under sub-section (1), the Chief Minister shall, without any delay, cause the same to be placed before the Council of Ministers for its consideration, in its original form. The Council of Ministers shall accept or reject the report or any part thereof as it may decide. As per the decision of the Council of Ministers, the State Government shall take appropriate action.

15. (1) If, in any case to which section 14 does not apply, the Lokayukta Aayog, after investigation of any action in respect of which a complaint involving an allegation has been or can be or could have been made, is satisfied that such allegation can be substantiated, either wholly or partly, it shall by a report in writing, communicate its findings alongwith the relevant documents, materials and other evidence, to the competent authority.

Findings and recommendations to be communicated to competent authority by a report.

(2) The competent authority shall examine the report forwarded to it under sub-section (1) and intimate, within seven months of the date of receipt of the report to the Lokayukta Aayog as to the action taken or proposed to be taken on the basis of the report.

16. (1) (i) Where, after conclusion of an investigation or an inquiry, the Lokayukta Aayog is satisfied that the complaint involving an allegation against a public functionary falling under sub-clause (a) of clause (10) of section 2 is substantiated and arrives at a finding that the public functionary concerned should not continue to hold the post held by him, the Lokayukta Aayog shall make a declaration to that effect in its report. Where the competent authority is the Council of Ministers or the Chief Secretary, it / he may either accept or reject the declaration, for reasons to be recorded in writing and communicated to the Lokayukta Aayog, within a period of six months. In other cases, the competent authority shall send a copy of such report to the State Government, which may either accept or reject the declaration within a period of one year from the date of receipt of the report, or the copy of the report, as the case may be. If, on the expiry of specified period in this sub-section, no decision is taken on the declaration then such declaration shall be deemed to have been accepted.

Report of Lokayukta Aayog, competent authority to act in a time bound manner.

(ii) If the declaration so made is accepted or is deemed to have been accepted, the fact of such acceptance or the deemed acceptance shall immediately be intimated by registered post by the State Government or the Chief Minister or the Chief Secretary, if any of them is the competent authority, and by the State Government in other cases then, notwithstanding anything contained in any law, order, notification, rule or contract of appointment, the public functionary concerned shall, with effect from the date of intimation of such acceptance or of the deemed acceptance of the declaration,

- (a) if he is a Minister, resign from his office of Minister;
- (b) if he is not a Minister, be deemed to have vacated his office.

(2) (i) Where, after conclusion of an investigation or an inquiry, the Lokayukta Aayog is satisfied that the complaint involving an allegation against a public functionary falling under sub-clause (b) of clause (10) of section 2 is substantiated and arrives at a finding that the public functionary concerned should be proceeded against under the relevant Disciplinary and Appeal Rules as may be applicable, the Lokayukta Aayog shall make a declaration to that effect in its report.

(ii) The competent authority shall accept or reject the declaration within a period of six months from such receipt. If the competent authority fails to accept or reject the declaration within six months time then departmental proceedings shall be deemed to have been instituted against the concerned public functionary.

(3) Every departmental proceeding initiated under a report of the Lokayukta Aayog shall be completed within a period of twelve months from the date of acceptance or deemed acceptance of declaration.

Annual report
of Lokayukta
Aayog.

17. (1) The Lokayukta Aayog shall present, in such form as may be prescribed by the State Government in consultation with the Lokayukta Aayog, annually a consolidated report of the performance of its functions under this Act to the Governor, and the Governor shall, on receipt of such report, cause a copy thereof together with an explanatory memorandum to be laid before the State Legislature.

(2) Subject to the provisions of sub-section (2) of section 12, the Lokayukta Aayog may at his discretion make available from time to time, the substance of cases closed or otherwise disposed of by the Lokayukta Aayog which may appear to him to be of general public, academic or professional interest in such manner and to such persons as he may deem appropriate.

(3) The Lokayukta shall prepare a report on utilization of financial resources at its disposal and shall present it to the Governor, who shall cause it to be laid before the legislative assembly of the State. The report shall not be open to any debate within the assembly.

Staff of Lokayukta. 18. (1) There shall be such officers and employees as may be prescribed to assist the Lokayukta and the Up-Lokayukta as in the discharge of their functions under this Act.

(2) The categories, recruitment and conditions of service of the officers and employees referred in sub-section (1) including such special conditions as may be necessary for enabling them to act without fear in the discharge of their functions, shall be such as may be prescribed in consultation with the Lokayukta Aayog.

(3) Without prejudice to the provisions of sub-section (1), the Lokayukta Aayog may, for the purpose of conducting investigations under this Act, request the services of any officer or investigation agency of the State Government. The State Government may, having regard to administrative exigencies, make available such officer/s or agency as deemed fit for the purpose of that specific investigation :

Provided that nothing in this sub-section shall be construed to mean a permanent allocation of such officer/s or agency to the Lokayukta Aayog.

(4) For the purpose of investigating into any matter, any officer, agency or person whose services are utilised under sub-section (3) may, subject to the direction of the Lokayukta Aayog,-

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public record or copy thereof from any office.

(5) The provisions of sections 13 and 19 shall apply in relation to any information furnished to any officer, agency or person whose services are utilised under sub-section (3) as they apply in relation to the information furnished to the Lokayukta Aayog during the course of the investigation of any action by him.

19. (1) Any information, obtained by the Lokayukta Aayog or by members of its staff in the course of, or for the purposes of any inquiry or investigation under this Act, and any evidence recorded in connection with such information, shall subject to the provisions of the proviso to sub-section (2) of section 12, be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 no court shall be entitled to compel the Lokayukta or the Up-Lokayukta or the Lokayukta Aayog, or any public servant to give evidence relating to such information or produce the evidence so recorded.

Secrecy of
information.

(2) Nothing in sub-section (1) shall apply to the disclosure of any information or particulars,-

- (a) in any report to be made on an investigation under this Act or for any action or proceeding to be taken on such report; or
- (b) for purposes of any proceedings for an offence under the Official Secrets Act, 1923 or an offence of giving or fabricating false evidence under the Indian Penal Code or for purposes of any proceedings under section 20; or
- (c) for such other purposes as may be prescribed.

(3) An officer or other authority prescribed in this behalf may give notice in writing to the Lokayukta with respect to any document or information

specified in the notice or any class of documents so specified that in the opinion of the State Government the disclosure of the documents or information or of documents or information of that class would be contrary to public interest and where such notice is given, nothing in this Act shall be construed as authorising or requiring the Lokayukta or Up-Lokayukta or any member of his staff to disclose or communicate to any person any document or information specified in the notice or any document or information of a class so specified.

International
insult or
interruption to
or bringing into
disrepute
Lokayukta
Aayog.

20. (1) Whoever intentionally offers any insult or causes any interruption to the Lokayukta or the Up-Lokayukta or to the Lokayukta Aayog while the Lokayukta Aayog is conducting any investigation under this Act shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine or with both.

(2) Whoever, by words spoken, or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or the Up-Lokayukta or the Lokayukta Aayog into disrepute, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months or with fine or with both.

(3) The provisions of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the public prosecutor except with the previous sanction of the Lokayukta.

2 of 1974.

Protection.

21. (1) No suit, prosecution or other legal proceeding shall lie against the Lokayukta or the Up-Lokayukta or the Lokayukta Aayog or against any officer, employee, agency or person referred to in section 18 in respect of anything which is in good faith done or intended to be done under this Act.

(2) No proceedings of the Lokayukta Aayog shall be held bad for want of form and except on the grounds of jurisdiction, limitation and provisions of section 10, no proceedings or decision of the Lokayukta Aayog shall be liable to be challenged, reviewed, quashed or called in question in any court.

Conferment of
additional
functions on
Lokayukta.

22. (1) The State Government may, by notification published in the *Official Gazette* and after consultation with the Lokayukta Aayog, confer on the Lokayukta Aayog such additional functions in relation to the eradication of corruption as may be specified in the notification.

(2) The State Government may, by order in writing and after consultation with the Lokayukta Aayog, confer on the Lokayukta Aayog such powers of a supervisory nature over agencies, authorities or officers set up constituted or appointed by the State Government for the eradication of corruption as may be specified in the order.

(3) The State Government may, by order in writing and subject to such conditions and limitations as may be specified in the order, require the Lokayukta Aayog to cause investigation in any action (being action in respect of which a complaint may be made under this Act to the Lokayukta Aayog) and notwithstanding anything contained in this Act, the Lokayukta Aayog shall comply with such order.

(4) When any additional functions are conferred on the Lokayukta Aayog under sub-section (1) or when the Lokayukta Aayog is to cause investigation in any action under sub-Section (3), the Lokayukta Aayog shall exercise the same powers and discharge the same functions as it would in the case of any investigation made on a complaint involving an allegation, and the provisions of this Act shall apply accordingly.

23. (1) The State Government may, on the recommendation of the Lokayukta Aayog and on being satisfied that it is necessary or expedient in the public interest so to do, exclude, by notification in the *Official Gazette*, complaints, involving allegations against persons belonging to any class of public functionaries specified in the notification from the jurisdiction of the Lokayukta. **Power to exclude complaints against certain classes of public functionaries.**

(2) Every notification issued under sub-section (1) shall be laid as soon as may be after it is issued before the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following the State Legislature agree in making any modification in the notification or agree that the notification, should not be made and notify such decision in the *Official Gazette*, the notification shall, from the date of publication of such decision, have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done by virtue of that notification.

24. The sum deposited under section 11 by a complainant shall, -

Disposal of deposit.

- (a) in a case where the complaint is refused to be investigated or ceased to be investigated under sub-section (4) of section 12 stand forfeited to the State Government,
- (b) if the Lokayukta Aayog, for reasons to be recorded in writing so direct, be utilised for compensating the public functionary complained against, and
- (c) in any other case, be refunded to the complainant.

25. The Lokayukta Aayog may, by general or a special order in writing, direct that any power conferred or duties imposed on it by or under this Act (except the power to make report to the Chief Minister or Chief Secretary or the State Government under sections 14 and 15) may also be exercised or discharged by such of the officers, employees or agencies referred to in section 18 as may be specified in the order. **Power to delegate.**

Power to
make Rules.

26. (1) The State Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for,-

- (a) the competent authority under section 2;
- (b) the salary and the allowances and pension payable to, and other conditions of service of the Lokayukta and Up-Lokayukta under sub-sections (3) and (4) of section 5;
- (c) other places where the benches of Lokayukta shall sit;
- (d) the manner for obtaining the opinion of Chief Justice of High Court;
- (e) the administrative powers of Lokayukta under sub-section (4) of section 8;
- (f) the forms of complaints and the affidavits, under sub-section (2) of section 11 and the manner in which and the authority or agency for depositing the amount under sub-section (4) of that section 11;
- (g) the other matters in respect of which the Lokayukta Aayog shall have powers of a Civil Court under clause (f) of sub-section (2) of section 13;
- (h) the form of consolidated annual report under sub-section (1) of section 17;
- (i) the categories of officers and employees who may be appointed, their salaries and allowances and other conditions of service under sub-section (1) of section 18;
- (j) the other purposes of disclosure of any information or particulars under clause (c) of sub-section (2) of section 19 and the officer or other authority who may give notice for the purpose of sub-section (3) of section 19;
- (k) any other matters which is to be, or may be, prescribed for which the Act makes no provision and are necessary for the proper implementation of this Act.

(3) Any rescission or modification so made by the State Legislature shall be published in, the *Official Gazette* and shall thereupon take effect.

Provisions of
Act to be in
addition to
and not in
derogation of
any other
law.

27. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Prevention of Corruption Act, 1988 or any other law 2 of 1988.
for the time being in force.

Repeal and
savings.

28. (1) The Gujarat Lokayukta Act, 1986 is hereby repealed.

Guj. 31 of 1986.

(2) All proceedings in which inquiry or investigation has been initiated under section 10 (1) of the repealed Act and is pending before the Lokayukta under the repealed Act shall be continued by the Lokayukta Aayog in accordance with provisions contained in this Act.

(3) Any appointment of Lokayukta under repealed Act shall be deemed to be an appointment of a Lokayukta appointed under section 3(1) of this Act.

(4) Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the commencement of this Act and no complaint shall be made^{60 of 1952.} under this Act in respect of any matter referred for inquiry to such Commission before such commencement.

SCHEDULE

[See section 3(7)]

I.....having been appointed Lokayukta / Up-Lokayukta do swear in the name of God that I will bear true faith andsolemnly affirm allegiance to the Constitution of India as by law established, and I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favor, affection or ill will.

STATEMENT OF OBJECTS AND REASONS

The State of Gujarat has had a 'Lok Ayukta' law on its statute book since 1986, with the intent of upholding high standards of probity and conduct in the public life of Gujarat, as well as to prevent the sully of the waters of public life, by discouraging motivated slander, and thereby encourage a healthy, rancor free democratic environment.

In the past decades many changes have taken place. It is increasingly acknowledged that growth and progress is founded on the conduct of both elected and appointed officials, and just as presence of a corruption free environment is its necessary condition, the presence of an enabling environment for promotion of high ethical and moral standards of public service values is an equally compelling requirement. Increasingly emphasis has shifted from placing reliance on well meaning intent of patriotic citizens, either in public office or outside, to the establishment of enduring institutions. Institution building nationally has taken the shape of ordering an enduring policy driven environment rather than isolated initiatives; it has shifted from individual run bodies to multi-member bodies and from internal regulation to neutral externally enforced regulatory systems. As the economic growth and the social progress of Gujarat bears out, it has been well served by its institutions. However, every institution has to adapt to the needs of the time. The current aspirations of the citizens and the youth demand greater engagement and partnership in all aspects of governance, and a vigilance system that can engage with the people, and has the power to enforce its dispassionately determined assessments would go a long way in re-engaging with the people. An enduring faith of the citizenry in the inherent fairness and objectivity of the institutions that serve them is the *sine qua non* of democracy. Legitimacy of action flowing from public institutions is the foundation of the *Social Contract* between the people and their servants. While building on the successes of the past and learning from its many lessons, and with a view to establish strengthened vigilance institutions the proposed bill is being brought, that inter-alia also addresses the following concerns:

The Thirteenth Finance Commission has recommended setting up of institution of Local bodies Ombudsman to look into the complaints of corruption and mal-administration against the functionaries of local bodies – both elected representatives and the officials. The Commission has also recommended that in the event that all or a class of elected representatives or officials fall under the jurisdiction of a Lokayukta of a State, the State may decide whether those functionaries should be shifted to the proposed institution of Ombudsman or to continue under the jurisdiction of the institution of Lokayukta. In the proposed Bill, the definition of the term "public functionaries" has, therefore, been widened so as to include therein the office bearers and the Chairmen of the different committees of the Municipal Corporations, Municipalities and the Panchayats.

The class of appointed 'Public Servants' were excluded in the previous legislation; they are now brought within the purview of Lokayukta Aayog. The expanded scope of the new vigilance institution will result in vastly enhanced challenges in the scope and magnitude of work. As a result it is considered necessary to provide for "Up-Lokayuktas" in addition to the "Lokayukta", to provide for a broader base of knowledge, experience and skills. Thereby honoring the views expressed by H. E. the Governor of Gujarat in her message dated 27.05.2011.

In line with the national consensus the institution would function in a commission i.e. Aayog format, on the lines of the Election Commission of India and the Central Vigilance Commission. The proposed Bill provides for the constitution of benches comprising of the Lokayukta and Up-Lokayuktas and amongst the Up-Lokayuktas to address concerns of demonstrable neutrality and objectivity. The Bill while seeking to incorporate judicial and administrative experience provides for a greater say for judicial members in the Aayog's affairs. The Bill also responds to concerns of inclusiveness by provisioning for adequacy of representation of historically marginalized sections of society in the Aayog.

The Bill further seeks to transform the institution into an effective and powerful force by arming it with the power to declare various categories of public functionaries as 'unsuitable to continue to discharge their responsibilities or hold office', and ensures a time bound compliance mechanism for the same. This measure is well honed on both sides-on the one hand it ensures that the Aayog shall complete its enquiry within a maximum period of six (6) months, and on the other hand it provides for a final decision to be taken within a short period, which in the case of high public functionaries is six (6) months. This ensures that errant public functionaries are swiftly dealt with, while upholding the dignity of those who serve in office. Greater visible compliance of vigilance action will vastly enhance public confidence in governance institutions and establish a much more healthier and deepened democracy. To protect a public functionary against false and malicious allegations the penal provisions of the current Act have been retained, however so as to enhance the accessibility of the citizens and not to discourage genuine complainants, these provisions have been greatly diluted from the current two years' punishment to the proposed six months.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, the important provisions of the Bill:-

Clause 2.- This is a definition clause. Sub-clauses (1), (2), (8) and (10) define the important expressions such as "action", "allegation", "Minister" and "public functionary". In the definition of "public functionary", the Ministers including the Chief Minister are covered.

Clause 3.- This clause relates to the appointment of the Lokayukta and Up-Lokayukta. The Lokayukta is to be person who is or has been a judge of the Supreme Court of India or Chief Justice of a High Court. The Up-Lokayukta (Judicial) shall be a person who has held the office of the Judge of a High Court. The Up-Lokayukta (Administrative) shall be a person with experience in administrative or quasi-judicial matters, and shall have functioned as Secretary or Additional Secretary to the Government of India, or as Chief Secretary or Additional Chief Secretary to the Government of Gujarat.

Clause 4.- This clause provides for disabilities in respect of a Lokayukta and Up-Lokayukta.

Clause 5.- This clause provides for the term of office and other conditions of service of the Lokayukta and Up-Lokayukta. Sub-clause (2) of this clause provides that on ceasing to hold office Lokayukta and Up-Lokayukta shall be ineligible for reappointment as the Lokayukta and Up-Lokayukta, any assignment or appointment which is required by law to be made by the Governor of Gujarat.

Clause 6.- This clause provides for the manner of removal from office of the Lokayukta or Up-Lokayukta.

Clause 7.- This clause makes provision to the matters which may be investigated by Lokayukta Aayog. Sub-clause (4) of this clause permits investigation into the action taken by the public functionaries even after they cease to be such public functionaries.

Clause 8.- This clause provides the transaction and disposal of business by the Lokayukta Aayog.

Clause 9.- This clause provides for constitution of Benches of the Lokayukta Aayog. Sub-clause (1) of this clause provides that any complaint or matter received by the Lokayukta Aayog shall only be inquired into or investigated by a bench of the Lokayukta Aayog.

Clause 10.- This clause provides for matters which shall not be subjected to investigation by the Lokayukta Aayog.

Clause 11.- This clause provides for the manner in which a complaint may be made to the Lokayukta Aayog. In order to maintain the discipline in administrative organisation, sub-clause (1) of this clause prohibits a public servant from making a complaint.

Clause 12.- This clause seeks to provide for the procedure of investigation to be conducted by the Lokayukta Aayog. Sub-clause (5) of this clause empowers the Lokayukta Aayog to refuse to investigation any complaint if in his opinion the complaint is frivolous or vexatious or is not made in good faith and on other grounds specified in the said sub-clause (5).

Clause 13.- This clause provides for the power which the Lokayukta Aayog may exercise for the purpose of investigation. Sub-clause (6) of this clause provides that the proceedings before the Lokayukta Aayog shall be deemed to be judicial proceedings.

Clause 14.- This clause provides for the communication of the report of investigation in the case of the Minister to the Chief Minister who shall cause the same to be placed before the Council of Ministers for its consideration.

Clause 15.- This Clause provides for the communication of the finding of the Lokayukta Aayog as a result of investigation against a public functionary other than the Minister to the competent authority.

Clause 16.- This clause provides the manner in which the competent authority shall act on the report of the Lokayukta Aayog in certain matters.

Clause 17.- This clause relates to the presentation of annual report of the performance of the functions of the Lokayukta Aayog to the Governor who is required to cause a copy of the report to be laid before the State Legislature.

Clause 18.- This clause provides for the staff of the Lokayukta and the Up-Lokayukta and the machinery required by them for conducting investigation.

Clause 19.- This clause provides that any information obtained by the Lokayukta Aayog or members of his staff or evidence recorded shall be treated as confidential and that no court shall be entitled to compel the Lokayukta or the Up-Lokayukta or the Lokayukta Aayog, or any public servant to give evidence relating to such information, or produce the evidence so recorded.

Clause 20.- This clause provides for punishment for intentionally insulting or interrupting the Lokayukta or the Up-Lokayukta or Lokayukta Aayog. It also provides for punishment for any action which is calculated to bring the Lokayukta Aayog into disrepute.

Clause 22.- This clause empowers the State Government to confer on the Lokayukta Aayog the additional functions in relation to the eradication of corruption.

Clause 23.- This clause empowers the State Government to exclude complaints against certain classes of public functionaries on the recommendation of the Lokayukta Aayog.

Clause 24.- This clause provides for refund of deposit to the complainant and forfeiture of deposit in certain cases.

Clause 26.- This clause empowers the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of the Act.

Clause 27.- This clause provides that the provision of the proposed enactment shall be in addition to and not in derogation of the provisions of the Prevention of Corruption Act, 1988, or any other law for the time being in force.

Clause 28.- This clause provides for repeal and savings.

NITIN PATEL

FINACIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of an institution of Lokayukta Ayog consisting of Lokayukta and four Up-Lokayukta.

Sub-clauses (3) and (5) of Clause 5 of the Bill provide for the salary and allowances payable to the Lokayukta and Up-Lokayuktas.

Sub-clauses (1) and (2) of Clause 18 of the Bill provide for such number of officers and employees to assist the Lokayukta and the Up-Lokayuktas in the discharge of their functions under this Act.

If the Bill is enacted and brought into force, it would involve additional expenditure from the Consolidated Fund of the State. However, at this stage it is not possible to quantify the exact expenditure as it would depend on the number of officers and employees, such as may be provided under the rules for that purpose. Besides, such number would also depend on the quantum of complaints received by the Lokayukta Ayog. The expenditure involved, therefore, would be worked out separately and provision for the expenditure will be made thereafter.

NITIN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

Clause 1.-Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.- Para (ii) of sub-clause (4) of this clause empowers the State Government to prescribe by rules, the competent authority for public functionaries other than the Chief Minister;

Clause 5.- (i) Sub-clause (3) of this clause empowers the State Government to prescribe the salary of Lokayukta and Up-Lokayukta.

(ii) Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the allowances and pension payable to and other conditions of service of the Lokayukta and Up-Lokayukta.

Clause 9.-Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the other places where the benches of Lokayukta shall sit.

Clause 10.-Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner in which the Governor shall obtain the opinion of the Chief Justice of the High Court to decide the dispute.

Clause 11.-(i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form in which complaint shall be made and the form of affidavits to be accompanied with the complaint;

(ii) Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the manner in which and the authority or agency to which the complainant shall deposit the sum of rupees two thousand.

Clause 13.-Para (f) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the other matters in which the Lokayukta Ayog shall have power of civil court while trying a suit under the Code of Civil Procedure, 1908.

Clause 17.-Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form in which the Lokayukta Aayog shall present consolidated annual report of the performance of its functions under this Act to the Governor.

Clause 18.-(i) Sub-clause (1) of this clause empowers the State Government in consultation with the Lokayukta Aayog to prescribe by rules, the officers and employees which shall assist the Lokayukta and the Up-Lokayuktas in the discharge of their functions under this Act;

(ii) Sub-clause (2) of this clause empowers the State Government in consultation with the Lokayukta Aayog to prescribe by rules, the categories, recruitment and conditions of service of the officers and employees including such special conditions for enabling them to discharge the functions under this Act.

Clause 19.-(i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the other purposes for which any information may be disclosed by the Lokayukta Aayog or by any public servant;

(ii) Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the authority which may give notice to the Lokayukta or Up-Lokayukta with respect to any document or information specified in the notice or any class of documents so specified the disclosure of which, in the opinion of the State Government is contrary to public interest.

Clause 22.-Sub-clause (1) of this clause empowers the State Government after consultation with the Lokayukta Aayog to confer, by-notification in the *Official Gazette*, such additional functions in relation to the eradication of corruption as specified in the notification.

Clause 23.-Sub-clause (1) of this clause empowers the State Government on the recommendation of the Lokayukta Aayog to exclude, by notification in the *Official Gazette*, the complaints, involving allegations against persons belonging to any class of public functionaries specified in the notification from the jurisdiction of the Lokayukta.

Clause 26.-This clause empowers the State Government to make, by notification in the *Official Gazette*, the rules generally for carrying out the purposes of this Act and particularly for the matters specified therein.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 20th March, 2013.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 21st March, 2013.

C. J. GOTHI
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LIV]

THURSDAY, MARCH 21, 2013/PHALGUNA 30, 1934

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

The Following Bill Which was introduced on the 21st March, 2013 by
Shri Piyushbhai Desai M.L.A. is published under rule 127-A of the Gujarat
Legislative Assembly Rules for general information

The Gujarat Noise Pollution (Prevention) Bill, 2013

GUJARAT BILL NO. 29 OF 2013

A BILL

to provide for the control, regulation and elimination of noise pollution in the State of Gujarat and matters connected therewith.

Whereas the level and intensity of noise in urban and metropolitan areas has reached at a level which is hazardous to Human health and safety of the people.

And whereas, ecologists are of the view that the ill effects of the noise pollution is at the alarming level and unless checked may lead to irreparable loss to the citizens.

And whereas, it is considered necessary to take appropriate measures to check it.

It is hereby enacted in the Sixty-fourth Year of Republic of India as follows :-

Short title, extent
and commen-
cement.

1. (1) This Act may be called the Gujarat Noise Pollution (Prevention) Act, 2013.

(2) It shall extend to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "Authority" means an Officer of the Gujarat Pollution Control Board appointed as Noise Control Authority under Section 3.

(b) "Noise" means unwanted sound with reference to frequencies and duration of the sound in the context of environment and" includes noise within premises belonging to any person, noise created by vehicles, trains, loud speakers etc.

(c) "Prescribed" means prescribed by regulation made under the Act.

Authority to regulate sound.

3. (1) The Authority shall prescribe standards or regulations regarding permissible noise from different sources.

(2) In cases where the Authority is of the opinion that with respect to any source of noise it increases the permissible level, he shall issue direction in writing to the concerned person and if such person fails to comply with the direction he shall take appropriate steps to prevent or eliminate the noise.

(3) The Authority shall take measures to educate people on noise pollution including use of media for the purpose.

(4) The Authority shall issue direction to the use of any product or mechanism in order to prevent, control, regulate or eliminate noise from that product or mechanism and failing to comply with such directions shall amount to offence.

(5) The Authority shall regulate the noise created by procession, marriage ceremony, by beating drums, public meetings or by use of fire crackers by prescribing regulations with prior approval of the State Government.

4. Every offence under this Act shall be cognizable and bailable for a minimum sum of rupees Ten thousand. All prosecutions under this Act shall be tribal in the Metropolitan Magistrate Court.

Cognizance of offence.

5. Any person who is guilty of violating any of the provision of the Act or regulations made there under shall be punished with fine of not less than rupees ten thousand but not exceeding rupees twenty five thousand or be sentenced to imprisonment not exceeding three months or both.

Penalties.

6. Nothing in this Act shall take away or restrict any right of a person under Common Law or the Law of Torts to seek enforcement of his right to have any environmental Free noise.

Provision not to restrict rights of individual.

7. The Gujarat Pollution Control Board with previous approval of the State Government may make regulations, consistent with this Act, for carrying out all or any of the provisions under this Act.

Power to make Regulation.

STATEMENT OF OBJECTS AND REASONS

The magnitude of unwanted sound in the environment increases day by day, which is hazardous to the health of the people. Source of noise includes industries, transport system, marriage procession on public road, public meetings by political parties and many more. Sometime, it is difficult to bear the intensity of such noise by a student preparing for examination and a patient who is on the death bed in Hospital.

At present, there is no adequate machinery in Government to regulate the problem of noise. It is also equally necessary to educate people for elimination of noise.

Hence, it is considered necessary to have a comprehensive law on this subject.

Hence, this Bill.

GANDHINAGAR

Dated the 4th March, 2013.

PIYUSHBHAI DESAI

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in the following respect:-

Clause 3- of the Bill empowers the Gujarat Pollution Control Board to frame regulations for permissible noise from different sources.

Clause 7 of the Bill empowers the Board to frame regulations for carrying out the purposes of the Act.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

GANDHINAGAR

Dated the 4th March, 2013.

PIYUSHBHAI DESAI

M. L. A.

Gandhinagar.

Dated The 21st March, 2013.

D. M. PATEL

Secretary,

Gujarat Legislative Assembly.



सत्यमेव जयते

REGISTERED NO. L2/RNP/G/ GNR/ 84
વાર્ષિક લવાજમનો દર રૂ. ૩૦૦૦/-.

The Gujarat Government Gazette

EXTRAORDINARY
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Vol. LIV]

FRIDAY, MARCH 22, 2013/ CAITRA 1, 1935

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the
proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT LIFTS AND ESCALATORS (AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 25 Of 2013.

A BILL

further to amend the Gujarat Lifts and Escalators Act, 2000.

It is hereby enacted in the Sixty-fourth Year of the republic of India as
follows:-

1. (1) This Act may be called the Gujarat Lifts and Escalators (Amendment) Act, 2013. Short title and
commencement.

(2) It shall come into force on such date as the State Government may, by
notification in the *Official Gazette*, appoint.

Amendment of section 2 of Guj. 4 of 2000. 2. In the Gujarat Lifts and Escalators Act, 2000 (hereinafter referred to as "the principal Act"), in section 2, for clause (c), the following clause shall be inserted, namely :-

Guj.4 of 2000.

" (c) "Chief Inspector", "Inspector" and "Assistant Inspector" means respectively the person designated or appointed, as the case may be, to be the Chief Inspector of Lifts and Escalators, the Inspector of Lifts and Escalators and the Assistant Inspector of Lifts and Escalators under sub-section (1) of section 10A or under sub-section (1) of section 15,,";

Amendment of section 6 of Guj. 4 of 2000. 3. In the principal Act, in section 6, in sub-section (1), for the words "three years", the words "five years" shall be substituted;

In section of new section 10A of Guj. 4 of 2000. 4. In the principal Act, in, after section 10, the following section shall be inserted, namely :-

Power of State Government to designate in the areas comprising of municipal corporations or municipalities.

" 10A. (1) Notwithstanding anything contained in this Act, for the area comprising of the Municipal Corporations constituted under the Gujarat Provincial Municipal Corporations Act, 1949, or for the area comprising of the Municipalities constituted under the Gujarat Municipalities Act, 1963, as the case may be, the State Government may by notification in the *Official Gazette*, designate, subject to such terms and conditions, any person of the Municipal Corporation or of the Municipality, as the case may be, who possesses the prescribed qualifications to be the officer, the Chief Inspector, the Inspector and the Assistant Inspector, for the purposes of sections 3 to 10 and sections 12 and 16 of this Act or any other section wherever necessary, and the provisions of the said sections shall "*mutatis mutandis*" apply from such date as specified in the notification.

Bom. LIX of 1949.

Guj. 34 of 1964.

(2) The Chief Inspector designated under sub-section (1) shall in addition to the powers conferred on him under this Act, exercise the powers of an Inspector within such area as may be notified by the State Government.

(3) Every Inspector so designated under sub-section (1) shall exercise the powers and perform the functions of the Inspector under this Act within such areas or in respect of such class of lifts or escalators installations and subject to such restrictions as the State Government may direct.

(4) The Municipal Corporation or the Municipality may authorise any person for the areas comprising of the Municipal Corporation or the Municipality, as the case may be, as may be specified and subject to such terms and conditions, who possesses the qualifications for being appointed as the Inspector or the Assistant Inspector, as the case may be, to exercise the powers and functions of the Inspector or the Assistant Inspector, respectively.”.

5. In the principal Act, in section 13, in sub-section (1), for the words “The Chief Inspector”, the words and figures “ The Chief Electrical Inspector appointed under the Electricity Act, 2003” shall be substituted;

Amendment of
section 13 of
Guj. 4 of 2000.

36 of 2003.

6. In the principal Act, for section 15, the following shall be substituted, namely:-

Substitution of
section 15 of
Guj. 4 of 2000.

Appointment of Chief Inspector, Inspector and Assistant Inspector of Lifts and Escalators. “15. (1) The State Government may, by notification in the *Official Gazette*, appoint a person having such qualifications as may be prescribed in this behalf to be-

(a) the Chief Inspector of Lifts and Escalators;

(b) the Inspector of Lifts and Escalators;

(c) the Assistant Inspector of Lifts and Escalators.

(2) The Chief Inspector shall in addition to the powers conferred on him under this Act, exercise the powers of an Inspector within such area as may be notified by the State Government.

(3) Every Inspector so appointed shall exercise the powers and perform the functions of the Inspector under this Act within such areas or in respect of such class of lifts or escalator installations and subject to such restrictions as the State Government may direct.

(4) The State Government may, by notification in the *Official Gazette*, authorise any person for the areas other than the areas comprising of the Municipal Corporation as may be specified and subject to such terms and conditions, who possesses the qualifications for being appointed as the Inspector or the Assistant Inspector, as the case may be, to exercise the powers and functions of the Inspector or the Assistant Inspector, respectively.

Amendment of 7.
section 16 of
Guj. 4 of 2000.

In the principal Act, in section 16,-

(1) for sub-section (1), the following sub-sections shall be substituted, namely:-

“(1) Every lift or escalator-

(a) shall be inspected by the Chief Inspector or by the Inspector authorised in this behalf by the State Government before the grant of a license under section 4;

(b) shall be inspected by the Assistant Inspector, either appointed or authorised by the State Government, at an interval of five years from the date of grant of License;

(c) may be inspected by the Inspector to check up compliance with the order made under sub-section (2) of section 10, if necessary.

(1A) Notwithstanding anything contained in this Act, the Chief Inspector may inspect at any time any lift or escalator for the purposes of this Act and the rules made thereunder.”;

(2) in sub-section (2) the words “six months”, the words “one year” shall be substituted.

Insertion of 8.
new sections
23A in
Guj.4 of 2000.

In the principal Act, after section 23, the following new section shall be added, namely:-

Power of State
Government to
give directions.

“23A. The State Government shall have the powers to issue directions to the persons as designated under sub-section (1) of section 10A from time to time as may be required for the compliance of the provisions of this Act and the rules made thereunder and the persons so designated shall, notwithstanding any provision in the relevant law, be bound to comply with such directions.

Amendment of
section 24 of
Guj. 4 of 2000.

9. In the principal Act, in section 24, in sub-section (2), after clause (m), the following clause shall be inserted, namely:-

“(mm) the qualifications and other requirements for appointment of the Chief Inspector, the Inspector and the Assistant Inspector under sub-section(1) of section 15;”.

10. In the principal Act, for section 25, the following section shall be substituted, namely:-

Substitution of
section 25 of
Guj. 4 of 2000.

Provisions of "25. Nothing contained in this Act shall affect the provisions of the Electricity Act, 2003 or any rules made thereunder." of the Electricity Act, 2003 not affected.

11. Each of the Acts specified in the second column of the Schedule shall be amended in the manner and to the extent specified against it in the third column thereof.

Amendment of
Bom. LIX of
1949 and
Guj. 34 of
1964.

SCHEDULE

Sr. No.	Short title.	Extent of Amendment.	
1	2	3	
1.	The Gujarat Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949).	Insertion of new section 63A in Bom. LIX of 1949.	After section 63, the following section shall be inserted, namely:- Functions relating to Lifts and Escalators. "63A. It shall be incumbent upon the municipal corporation to implement the provisions of the Gujarat Lifts and Escalators Act, 2000 consequent upon the issuance of notification by the State Government under section 10A of the said Act."
2.	The Gujarat Municipalities Act, 1963 (Guj. 34 of 1964).	Insertion of new section 87A in Guj. 34 of 1964.	After section 87, the following section shall be inserted namely:- Functions relating to, Lifts and Escalators. "87A. It shall be incumbent upon the municipality to implement the provisions of the Gujarat Lifts and Escalators Act, 2000 consequent upon the issuance of notification by the State Government under section 10A of the said Act."

Guj.4 of
2000.

Guj.4 of
2000.

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Gujarat Lifts and Escalators Act, 2000, license is granted and renewed for a period of three years. However, there has been substantial increase in the number of lifts in the State and therefore, it is proposed to increase the said period of three years to five years. *Clause 3* of the Bill provides for the same.

It is considered necessary to delegate the powers of granting permission to erect lift and issue license to use, to the officers of Municipal Corporation or of Municipality who possess the prescribed qualifications and also empower them to authorise any person to function as Inspector or Assistant Inspector. *Clause 4* of the Bill provides for the same.

It is considered necessary that authorisation for erection, maintenance, inspection and testing of lifts is granted by one authority for whole of the State. Hence the said function is delegated to the Chief Electrical Inspector. *Clause 5* of the Bill provides for the same.

It is considered necessary to prescribe the qualifications for the appointment of the Chief Inspector, the Inspector and the Assistant Inspector. Provision is proposed to be made to the effect that a person possessing such qualifications may be authorised by the State Government, subject to such conditions to function as an Inspector or an Assistant Inspector, as the case may be, for the purpose of inspection and testing of lifts and escalators. *Clause 6* of the Bill provides for the same.

Under the existing provisions of section 16 of the Act, the owner of the lift is required to get the lift inspected at interval of every six months by the authorised person. The said period of six months is enhanced to one year. Sub-clause (2) of *Clause 7* of the Bill provides for the same.

As the officers of the Municipal Corporations and of the Municipalities are to be granted powers and functions under the said Act, it is felt necessary to make provisions to give directions to them by the State Government. *Clause 8* of the Bill provides for the same.

As functions of the said Act are to be entrusted to the Municipal Corporations or to the Municipalities, consequential changes are required to be made in the Gujarat Provincial Municipal Corporations Act, 1949 and in the Gujarat Municipalities Act, 1963. *Clause 11* of the Bill provide for the same.

SAURABH PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1. – Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2. – New section 10A proposed to be inserted by this clause empowers the State Government, by notification in the *Official Gazette*, to designate any person of the Municipal Corporation or of the Municipality, as the case may be, who possesses the prescribed qualifications to be the Officer, the Chief Inspector, the Inspector and the Assistant Inspector for the area comprising of the Municipal Corporation or of the Municipality.

Clause 6. – (i) Sub-section (1) of section 15 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the qualifications for appointment of the Chief Inspector of Lifts and Escalators, the Inspector of Lifts and Escalators and the Assistant Inspector of Lifts and Escalators;

(ii) sub-section (4) of section 15 proposed to be substituted by this clause empowers the State Government by notification in the *Official Gazette*, to authorise any person, who possesses the qualifications for appointment to the post of Inspector or Assistant Inspector, to exercise the powers and functions of the Inspector or the Assistant Inspector. subject to such terms and conditions.

The delegation of legislation powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 21st March, 2013.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat.

Gandhinagar,
Dated the 22nd March, 2013.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under
the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT PRIVATE UNIVERSITIES (AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 26 OF 2013.

A BILL

further to amend the Gujarat Private Universities Act, 2009.

WHEREAS the Lakulish International Fellowship's Enlightenment Mission (Life Mission), Limdi, Surendranagar, Team Lease Education Foundation, Mumbai and Vardhman Bharti Trust, Wadhwan City, Surendranagar have applied to the State Government under the provisions of the Gujarat Private Universities Act, 2009 to establish Private Universities in the State;

Guj. 8 of 2009.

AND WHEREAS the said applications have been scrutinised by the Scrutiny Committee and on the report of Scrutiny Committee, the State Government has issued the letter of intent to the respective sponsoring bodies for establishment of the Private University;

AND WHEREAS the State Government is satisfied that the sponsoring bodies have complied with the conditions of letter of intent as provided in section 10 of the said Act and have also established the Endowment Fund as per the letter of intent;

NOW, THEREFORE, the Government of Gujarat, in accordance with the provisions of section 10 of the said Act, establishes the institutions specified in column 2 of the Schedule as the Private University of the aforesaid sponsoring bodies, by the name, location and jurisdiction as specified in column 4 of the Schedule.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Gujarat Private Universities (Amendment) Act, 2013.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of Schedule to Guj. 8 of 2009.

2. In the Gujarat Private Universities Act, 2009, in the Schedule, after entry at serial No. 10, the following entries shall be inserted, namely:-

Sr. No.	Name and Address of the Private University.	Details of Registration and Registration Number	Sponsoring Body.
1.	2.	3.	4.
"11.	Lakulish Yoga University, Chharodi, Gandhinagar-Sarkhej Highway, Ahmedabad.	Registered under the Bombay Public Trusts Act, 1950 Registration No. E/643, Surendranagar-26/03/96	Lakulish International Fellowship's Enlightenment Mission (Life Mission), Limdi, Dist: Surendranagar, Gujarat.
12.	Team Lease Skills University, ITI-Tarsali, Vadodara.	Registered under section 25 of the Companies Act, 1956 Registration No. U80903MH2011 NPL21938 Mumbai-400051. 27/6/11	Team Lease Education Foundation run by Team Lease Services Pvt. Ltd., Office No. 6, 3 rd Floor, C-Wing, Laxmi Towers, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India.
13.	C. U. Shah University Wadhwan City, Dist. Surendranagar.	Registered Public Charitable Trust, Registration No. F/43, Dated 06/03/69, Surendranagar	Vardhman Bharti Trust, Smt. M. T. Doshi High School, Lakhupole, Wadhwan City, Dist. Surendranagar-363030."

STATEMENT OF OBJECTS AND REASONS

The State Government has enacted the Gujarat Private Universities Act, 2009 (Guj. 8 of 2009) to provide for establishment of Private Universities in the State so as to provide for qualitative and industry relevant higher education and to regulate their functions, under which in all ten Private Universities have been established so far.

The State Government has received proposals among others from Lakulish International Fellowship's Enlightenment Mission (Life Mission), Limdi, Dist: Surendranagar, Gujarat, Team Lease Education Foundation run by Team Lease Services Pvt. Ltd., Bandra (East), Mumbai-400051, Maharashtra, India and Vardhman Bharti Trust, Wadhwan City, Dist. Surendranagar, Gujarat for establishment of the Lakulish Yoga University, Chharodi, Gandhinagar-Sarkhej Highway, Ahmedabad, Team Lease Skills University, ITI-Tarsali, Dist. Vadodara and C. U. Shah University, Wadhwan City, Dist. Surendranagar, Gujarat respectively as the Private Universities. The said proposals have been considered by the State Government and since the said sponsoring bodies have complied with the provisions of the Act, it is considered necessary to include the names of said Universities in the Schedule to the Act, thereby conferring them the Status of Private University.

This Bill seeks to amend the said Act to achieve the aforesaid object.

BHUPENDRASINH CHUDASAMA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in following respect :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Gandhinagar,

Dated the 21st March, 2013.

BHUPENDRASINH CHUDASAMA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 22nd March, 2013.

C. J. GOTHI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarat and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE RAKSHA SHAKTI UNIVERSITY (AMENDMENT)

BILL, 2013.

GUJARAT BILL NO. 27 OF 2013.

A BILL

further to amend the Raksha Shakti University Act, 2009.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Raksha Shakti University (Amendment) Act, 2013. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 2 of Guj.
14 of 2009.

2. In the Raksha Shakti University Act, 2009 (hereinafter referred to as "the principal Act"), in section 2, after clause (ii), the following clause shall be inserted, namely:-

"(ii-a) 'Chairman' means Chairman of the University appointed under section 7A;"

Amendment of
section 3 of Guj.
14 of 2009.

3. In the principal Act, in section 3, in sub-section (2), for the words "The Director General," the words "The Chairman, the Director General," shall be substituted.

Amendment of
section 5 of Guj.
14 of 2009.

4. In the principal Act, in section 5, for clause (iv), the following clause shall be substituted, namely:-

"(iv) to develop, conduct and review course curriculum, relating to security matters and other related subjects of knowledge with the objective of promoting scholarship and excellence;"

Amendment of
section 7 of Guj.
14 of 2009.

5. In the principal Act, in section 7, for clauses (ii) and (iii), the following clauses shall be substituted, namely:-

"(ii) to provide for instruction, training and research in such branches of knowledge or learning pertaining to all aspects of policing and public participation for greater benefits to society;

(iii) to prescribe and conduct courses and curricula and provide for flexibility in the education systems and delivery methodologies including electronic and distance learning;"

Insertion of new
section 7A in
Guj. 14 of 2009.

6. In the principal Act, after section 7, the following section shall be inserted, namely:-

Chairman. "7A. (1) (a) The Chairman of the University shall be appointed by the State Government, who shall be the person of eminence and has excelled in any field of governance, policing academics, judiciary, defence studies or internal security.

(b) The Chairman shall not have attained the age of seventy years on the date of nomination or re-nomination.

(2) The Chairman shall hold office for a period of three years and shall be eligible for re-nomination for one more term only.

(3) The other terms and conditions of appointment of the Chairman shall be such as may be determined by the State Government.

(4) Where a vacancy in the office of the Chairman occurs on account of death, resignation or otherwise, the State Government shall appoint immediately suitable person to be the Chairman in accordance with the provision of sub-section (1).

(5) The Chairman may resign from his office by writing under his hand addressed to the State Government and such resignation shall take effect from the date of acceptance by the State Government.

(6) The Chairman shall have, subject to the provisions of this Act, power to cause an inspection or review of matters relating to estates, buildings, infrastructure and other systems maintained by the University."

7. In the principal Act, in section 8, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:-

Amendment
of section 8 of
Guj. 14 of
2009.

"(1) (a) The Director General of the University shall be appointed by the State Government on the recommendations of the Search Committee consisting of-

- (i) an eminent educationist;
- (ii) an eminent person who is associated with and has excelled in the field of security;
- (iii) one Vice-Chancellor of any of the Universities of the State of Gujarat.

(b) The State Government shall appoint the Search Committee and nominate one of its members as the Chairman of the Search Committee.

(2) The Director General shall be appointed from amongst the persons who,-

- (i) have achieved distinction and excellence in the field of security and defence or related fields with proven record of his contribution;

- (ii) have not attained the age of sixty-five years on the date of nomination or re-nomination.”.

Amendment of section 9 of Guj. 14 of 2009. 8. In the principal Act, in section 9,-

- (1) sub-section (1) shall be deleted;
(2) in sub-section (2), in clause (i), the word “Board,” shall be deleted.

Amendment of section 11 of Guj. 14 of 2009. 9. In the principal Act, in section 11, before clause (i), the following clause shall be inserted, namely:-

“(i-a) The Chairman,”.

Amendment of section 12 of Guj. 14 of 2009. 10. In the principal Act, in section 12, in sub-section (1),-

- (1) for clause (i), the following clauses shall be substituted, namely:-

“(i-a) the Chairman, who shall be the Chairman of the Board;

(i) the Director General;”;

- (2) for clause (x), the following clauses shall be substituted, namely:-

“(x) five members from amongst the persons who are associated with and have excelled in the field of defence or education or public services, to be nominated by the State Government;

(xi) one of the Deans by rotation, to be nominated by the Director General.”.

Amendment of section 16 of Guj. 14 of 2009. 11. In the principal Act, in section 16,-

- (1) in sub-section (1), after clause (vii), the following clause shall be added, namely:-

“(viii) three eminent academicians, to be nominated by the State Government;”;

- (2) in sub-section (3), for the words, brackets and figures “clauses (iii), (iv) and (vii)”, the words, brackets and figures “clauses (iii), (iv), (vii) and (viii)” shall be substituted.”.

12. In the principal Act, in section 20, for sub-section (1), the following sub-section shall be substituted, namely:-
Amendment of section 20 of Guj. 14 of 2009.
“(1) The Deputy Director General of the University shall be appointed by the State Government by transfer or deputation from amongst the serving senior officers of the State Government in the fields of security or public service or administration.”.
13. In the principal Act, section 25 shall be deleted.
Deletion of section 25 of Guj. 14 of 2009.
14. In the principal Act, in section 26, for the words “The Government shall pay”, the words “The Government shall give” shall be substituted.
Amendment of section 26 of Guj. 14 of 2009.
15. In the principal Act, in section 29, sub-section (2) shall be deleted.
Amendment of section 29 of Guj. 14 of 2009.
16. In the principal Act, in section 32, for the words “such reports,” the words “such annual reports,” shall be substituted.
Amendment of section 32 of Guj. 14 of 2009.
17. In the principal Act, in section 39, after the words “from the University,” the words “the Chairman,” shall be inserted.
Amendment of section 39 of Guj. 14 of 2009.

STATEMENT OF OBJECTS AND REASONS

The State Government has enacted the Raksha Shakti University Act, 2009 to establish the Raksha Shakti University to develop an institution in security science and management for bringing about excellence in all functions of security forces and such other related objects. It is considered necessary to have a post of Chairman in the University who has excelled in any field of governance, policing, academics, judiciary, defence studies or internal security and therefore the necessary amendments have been proposed in the Bill. It is also proposed to constitute a Search Committee for the appointment of Director General. Clause (i) of sub-section (2) of section 8 of the Raksha Shakti University Act, 2009 provides for the different categories of persons from which the Director General of the University can be appointed.

It is considered necessary to broadbase the constitution of the Board of Governance to provide scope for appointing persons who are associated with the field of education, defence or public service.

The Bill seeks to amend the said Act to achieve the aforesaid objects.

RAJANI PATEL,

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for appointment of a Chairman of the University. If the Bill is enacted and brought into force, it would involve expenditure from the Consolidated Fund of the State as follows:-

(1) Capital Expenditure (Non-recurring)	: Rs. 10 lakhs
(2) Recurring Expenditure	: Rs. 20 lakhs

Total Expenditure : Rs. 30 lakhs

RAJANI PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in following respect:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 21st March, 2013.

RAJANI PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 22nd March, 2013

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The Following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 28 OF 2013.

A BILL

further to amend the Gujarat Co-operative Societies Act, 1961.

WHEREAS by the Constitution (Ninety-Seventh Amendment) Act, 2011, PART IXB relating to the Co-operative Societies has been inserted in the Constitution;

AND WHEREAS it is expedient to amend the Gujarat Co-operative Societies Act, 1961 in conformity with the Constitution (Ninety-Seventh Amendment) Act, 2011.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows :-

Short title. 1. This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2013.

Amendment of section 2 of Guj. X of 1962. 2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act"), in section 2, —

(1) after clause (1), the following clause shall be inserted, namely :-

"(1A) "authorised person" means a person duly authorised by the Registrar to take action under the provisions of this Act;"

(2) for clause (5), the following clause shall be substituted, namely:-

"(5) "committee" means the Managing Committee or other governing body of a society to which the direction and control of the management of the affairs of a society is entrusted to;"

Insertion of new sections 28A and 28B in Guj. X of 1962. 3. In the principal Act, after section 28, the following sections shall be inserted, namely :-

Attendance of meeting by members.

"28A. It shall be the duty of every member of a society —

- (i) to attend atleast two meetings of the general body within a consecutive period of five years;
- (ii) to utilize minimum level of services as prescribed in the bye-laws :

Provided that a member who does not attend atleast two meetings of the general body as above or does not utilize minimum level of services as prescribed in the bye-laws for a consecutive period of five years, shall be liable to be removed by the Registrar as the member of the society :

Provided further that before removing such person from the membership of the society, he shall be afforded an opportunity of being heard and if his explanation is found satisfactory, his name shall not be removed from the membership of the society.

Provision for co-operative education and training to members.

28B. The State Government may impart co-operative education and training to the members of the co-operative societies so as to enable them to effectively manage the affairs of the society."

4. In the principal Act, after section 41, the following section shall be inserted, namely :-

Insertion of new section 41A in Guj. X of 1962.

Returns, etc. "41A. Every society shall file returns within six months of the closure of every financial year to such authority as may be designated by the State Government for the purpose, including the following, namely :-

- (a) annual report of its activities;
- (b) its audited statement of accounts;
- (c) plan for surplus disposal as approved by the general body of a society;
- (d) list of amendments to the bye-laws of the society, if any;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due; and
- (f) any other information required by the Registrar in pursuance of any of the provisions of the Act."

5. In the principal Act, in section 50, in sub-section (2), after the words "deducted to the society", the words 'within a period of fourteen days from the date on which such deduction is made' shall be inserted.

Amendment of section 50 of Guj. X of 1962.

6. (1) In the principal Act, in section 74, after sub-section (1), the following sub-sections shall be inserted, namely :-

Amendment of section 74 of Guj. X of 1962.

"(1A) Except as otherwise provided herein, the Managing Committee of a society shall consist of such number of members as may be provided in the bye-laws but not exceeding twenty-one members.

(1B) (i) There shall be reserved one seat for the Scheduled Castes or the Scheduled Tribes and two seats for Women in the managing committee of every society consisting of individuals as members and having members from such class or category of persons.

(ii) One seat may be reserved for the persons who are small farmers and marginal farmers.

Explanation.- The expressions "marginal farmer" and "small farmer" shall have the meanings respectively assigned to them in clauses (g) and (p) of section 2 of the Gujarat Rural Debtors Relief Act, 1976;

(1C) The term of office of the elected members of the managing committee and its office bearers shall be five

years from the date of election. The term of office bearers shall be co-terminus with the term of managing committee :

Provided that the managing committee may fill up a casual vacancy in the committee by nomination out of the same class or categories members in respect of which the casual vacancy has arisen, if the term of office of the managing committee is less than half of its original term.

- (1D) (a) The society shall co-opt persons having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the society as the members of the managing committee:

Provided that the number of such co-opted members shall not exceed two in addition to the twenty-one members as specified in sub-section (1A).

(b) The co-opted members as aforesaid shall not have the right to vote in any election of the society in their capacity as such members or to be eligible to be elected as office bearers of the Managing Committee.

- (1E) In case, where there are functional directors of a society, they shall also be members of the Managing Committee. Such members shall be excluded for the purpose of counting the total number of members of the Managing Committee.

Explanation.- For the purpose of this sub-section, "functional director" means and includes a Managing Director or a Chief Executive Officer by whatever designation called or any *ex-officio* member or any of the Head of the Department of the concerned society, nominated by the Committee."

Deletion of
section 74B of
Guj. X of 1962.

7. In the principal Act, section 74B shall be deleted.

Amendment of
section 74C of
Guj. X of 1962.

8. In the principal Act, in section 74C, after sub-section (3), the following sub-section shall be added, namely: -

"(4) The election of the Managing Committee shall be conducted before the expiry of its term so as to ensure that the newly elected members of the Managing Committee assumes office immediately on the expiry of the term of office of the members of the outgoing Managing Committee."

9. In the principal Act, after section 74C, the following section shall be inserted, namely:-

Insertion of new section 74CC in Guj. X of 1962.

Election of societies other than specified societies.

“74CC. (1) The election of the Committee and of the office bearers of the societies other than the specified societies as referred to in section 74C shall be conducted by such authority as the State Government may, by notification in the *Official Gazette*, notify.

(2) The authority appointed under sub-section (1) shall hold the election as per the rules as may be prescribed.

(3) The election of the Managing Committee shall be conducted before the expiry of its term so as to ensure that the newly elected members of the Managing Committee assumes office immediately on the expiry of the term of office of the members of the outgoing Managing Committee.”.

10. In the principal Act, section 74D shall be deleted.

Deletion of section 74D of Guj. X of 1962.

11. In the principal Act, in section 77,-

Amendment of section 77 of Guj. X of 1962.

(a) for sub-section (1) and the provisos thereunder, the following shall be substituted, namely :-

“(1) Every society shall convene the general meeting of its members within a period of six months of closure of the financial year to transact the business as provided under this Act.”.

(b) in sub-section (5), the words “or, as the case may be, the period extended by the Registrar under that sub-section” shall be deleted.

12. In the principal Act, for section 81’ the following shall be substituted, namely :-

Substitution of section 81 of Guj. X of 1962.

Supersession or suspension of Managing Committee.

“81. (1) If in respect of a Managing Committee of a society having the Registrar as its members, the State Government, and in respect of a Managing Committee of a Society which does not have the Registrar as its member, the Registrar, is of the opinion that -

- (i) the Committee persistently makes default; or
- (ii) the Committee is negligent in the performance of its duties imposed on it by or under this the Act or the rules made thereunder or the bye-laws; or

- (iii) the Committee has committed any act prejudicial to the interest of the society or its members; or
- (iv) there is stalemate in the constitution or functions of the committee; or
- (v) the authority which is assigned the functions of conducting elections in respect of Managing Committee has failed to conduct elections in accordance with the provisions of this Act,

the State Government or, as the case may be, the Registrar, after giving the committee an opportunity of being heard, within fifteen days from the date of issue of notice, by an order in writing, supersede or kept under suspension the committee and appoint —

- (a) a Committee, consisting of one or more members of the society, not being the members of the Committee superseded under this sub-section, or
- (b) one or more Administrators who need not be members of the society, or from amongst the officers of the Co-operative Department of the State Government,

to manage the affairs of the society for a period not exceeding six months :

Provided that the committee of any such society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government :

Provided further that in case of a society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply : 10 of 1949.

Provided also that in case of a society, other than a Multi-State Co-operative Society, carrying on the business of banking, the provisions of this section shall have the effect as if for the words "six months", the words "one year" had been substituted.

- (2) In the case of supersession of a Managing Committee, where an Administrator is appointed to manage the affairs of the society, he shall arrange for conduct of elections within the period specified in sub-section (1) or sub-section (3) and handover the management to the incoming Managing Committee.

- (3) No Committee of a society shall be kept under suspension for a period exceeding six months for the reasons stated in sub-section (1).
- (4) In case where the committee is superseded or kept under suspension and the committee or Administrator so appointed, shall, subject to the control of the State Government or, as the case may be, the Registrar and to such instructions as he may from time to time give, have powers to exercise all or any of the functions of the committee or of any office of the society and take all such actions as may be required in the interest of the society.
- (5) The conditions of service of the Administrator shall be such as may be prescribed by the State Government.”.

13. In the principal Act, for section 84, the following shall be substituted, namely :—

Substitution of
section 84 of
Guj. X of 1962.

Audit of
Accounts
of society.

“84. (1) The society shall cause to be audited its accounts atleast once in each financial year and also cause it to be completed within a period of six months from the closure of the financial year to which such accounts relate:

Provided that if the society fails to get its accounts audited within the stipulated period as stated above, the Registrar shall cause to be audited the accounts of the society and the cost incurred for such audit shall be recovered from the society.

(2) The society shall cause to be audited its accounts by an Auditor or auditing firm from a panel approved by the Government or an authority authorized by the State Government in this behalf, having required qualifications and experience as may be prescribed to be eligible for auditing accounts of the societies:

Provided that the audit of the Central Co-operative Banks and the State Co-operative Banks shall be conducted only by the Chartered Accountants from the panel approved by the National Bank.

(3) The audit report of the accounts of an apex Co-operative society shall be laid before the State Legislature as soon as possible after it is received.

(4) The auditor shall for the purpose of audit, at all times have access to all the books, accounts, documents, papers,

securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties to be produced the same at any place at the headquarters of the society or any branch thereof.

(5) If it appears to the Registrar on an application or otherwise that it is necessary or an expedient to get any account of the society re-audited, the Registrar may, by an order, provide for such re-audit and the provisions of this Act applicable to the audit of accounts of the society shall apply to such re-audit.

(6) For auditing the accounts of a society under this section, every society shall be liable to pay to the auditor such amount as audit fee as may be prescribed by the Government for different categories or class of societies.

(7) The Registrar shall, in consultation with the National Bank prescribe Prudential Norms including Capital to Risk Weighted Assets Ratio for Primary Agricultural Credit Co-operative Societies.

(8) The Registrar shall, by an order, provide for the periodical inspection by the officers subordinate to the Registrar or by the federal society or by the financial bank, for a class of society under section 87 or section 88.

Amendment of 14.
section 107 of
Guj. X of 1962.

In the principal Act, in section 107,--

- (1) in sub-section (1), before the words "If the Registrar" the words, figure, letter and brackets "Except as otherwise provided in sub-section (1A)," shall be inserted;
- (2) after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) Notwithstanding anything contained in sub-section (1), in case where the members of the society, after having discharged liabilities towards the debt and assets of the society, upon a resolution carried by three-fourth majority of the members of the society present at a special general meeting called for the purpose, *suo motu* resolves to wind up the society and conveys such resolution to the Registrar. The Registrar shall, after disposing off the surplus assets in accordance with the provisions of section 115, cancel the registration of such society under section 20."

15. In the principal Act, in section 147, in sub-section (1), –**Amendment of
section 147 of
Guj. X of 1962.**

- (i) after clause (f), the following shall be inserted, namely :-

“(f-a) any person before, during or after the election of members of the Managing Committee or office bearers, adopts corrupt practice;”

- (ii) after clause (n), the following shall be inserted, namely :-

“(n-a) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act;”;

- (iii) after clause (o), the following shall be inserted, namely :-

“(o-a) any officer or custodian who wilfully fails to hand over custody of book, accounts, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to an authorised person;”.

16. In the principal Act, in section 148, in sub-section (1), –**Amendment of
section 148 of
Guj. X of 1962.**

- (i) after clause (f), the following clause shall be inserted, namely: -

“(f-i) if it is an offence under clause (f-a) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both;”;

- (ii) after clause (n), the following clause shall be inserted, namely :-

“(n-i) if it is an offence under clause (n-a) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both;”;

- (iii) after clause (o), the following shall be inserted, namely :-

“(o-i) if it is an offence under clause (o-a) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both;”.

Insertion of new
section 168A in
Guj. X of 1962.

17. In the principal Act, after section 168, the following section shall be inserted, namely :-

Transitory
provisions.

"168A. Notwithstanding anything contained in this Act and amendments made in view of the Constitutional (Ninety-Seventh Amendment) Act, 2011, the Committees of the societies existing immediately before the commencement of the Gujarat Co-operative Societies (Amendment) Act, 2013, shall continue till the expiration of their term unless sooner superseded. All the orders of the Administrator or any other order passed by the Registrar shall continue for the period mentioned in such order as if passed under the amended provisions. All proceedings pending before the Registrar or person authorised by him or any other authority under the provisions of this Act shall stand transferred wherever necessary to the Registrar or any authority according to the amended provisions of the Gujarat Co-operative Societies (Amendment) Act, 2013, as the State Government may notify."

Guj. of 2013.

Guj. of 2013.

STATEMENT OF OBJECTS AND REASONS

The Parliament has enacted the Constitution (Ninety-Seventh Amendment) Act, 2011, thereby inserting PART IXB after PART IXA in the Constitution of India comprising therein the provisions relating to co-operative societies in order to see that the co-operative societies have in their affairs greater autonomy, democratic functioning and professional management. The provisions of PART IXB mainly relate to number and term of the members of the Managing Committee, election of members of the Managing Committee, supersession and suspension of the Managing Committee, audit of accounts of co-operative societies, convening of general body meetings, returns required to be filed by the co-operative societies, etc. The State Legislatures are required to insert the above provisions in their law relating to co-operative societies in view of the above said constitutional amendments. It is, therefore, considered necessary to amend the Gujarat Co-operative Societies Act, 1961 in tune with the provisions contained in PART IXB of the Constitution of India.

This Bill seeks to achieve the aforesaid objects.

The following notes on *clauses* explain, in brief, the important provisions of the Bill: -

Clause 2. - This clause provides for the definitions of "authorized person" and "committee".

Clause 3. -- New sections 28A and 28B proposed to be inserted by this clause provide for the attendance of the members of the Society in the general body and failure on the part of member to comply with the provisions his membership shall be liable for removal. Section 28B casts duty upon the State Government to provide for co-operative education and training to the members of the co-operative society for effective participation in managing the affairs of the society.

Clause 4. -- New section 41A proposed to be inserted by this clause casts duty upon the co-operative society to file returns containing the matters specified therein, within six months of the closure of financial year, to the authority as may be designated by the State Government.

Clause 5. -- This clause provides that the deduction made by the employer from the salary or wages payable to the employees shall be required to be deposited within a period of fourteen days from the date on which such deduction is made.

Clause 6.- (i) New sub-section (1A) proposed to be inserted in section 74 by this clause provides that the members of the Managing Committee of a Society shall not exceeds twenty-one in number;

(ii) New sub-section (1B) proposed to be inserted in section 74 by this clause provides for the reservation of one seat for Scheduled Castes or Scheduled Tribes and two seats for Women on the Managing Committee of every society; and also one seat be reserved small farmers and marginal farmers;

(iii) New sub-section (1C) proposed to be inserted in section 74 by this clause provides that the term of office of the elected members of the Managing Committee and its office bearers shall be five years from the date of the election of the Committee and filling up of the casual vacancies by nomination if the term of office of the elected members of the Managing Committee and its office bearers;

(iv) New sub-section (1D) proposed to be inserted in section 74 by this clause provides for co-option of the persons not exceeds two, having experience in the Field as mentioned therein;

(v) New sub-section (1D) proposed to be inserted in section 74 by this clause provides that the co-opted members shall not have the right to vote in any election of the society in their capacity as such members or be eligible for contesting election of office of bearers of the Managing Committee;

(vi) New sub-section (1E) proposed to be inserted in section 74 by this clause provides that the functional directors of the society, shall also be members of Managing Committee but shall be excluded from the total number of members of the Managing Committee.

Clause 7.- This clause provides for deletion of existing section 74B.

Clause 8.- Sub-section (4) proposed to be inserted in section 74C by this clause provides that the election of the Managing Committee shall be conducted before the expiry of its term so that newly elected members of the Managing Committee assumes office on the expiry of the term of office of the members of the outgoing Managing Committee.

Clause 9.- (i) Sub-section (1) of new section 74CC proposed to be inserted by this clause empowers the State Government to notify, by notification in the *Official Gazette*, the authority which shall conduct the election of the Committee and of the office bearers of the societies other than the specified societies;

(ii) sub-section (2) of new section 74CC proposed to be inserted by this clause empowers the State Government to prescribe by rules, the manner in which the authority shall conduct the election of the Committee and of the office bearers of the societies other than the specified societies.

Clause 10.- This clause provides for deletion of existing section 74D.

Clause 11.- Sub-section (1) of section 77 is proposed to be substituted by this clause casts duty upon the co-operative society to convene general meeting within six months of the closure of financial year.

Clause 12.- Section 81 proposed to be substituted by this clause provides for the supersession or suspension of the Managing Committee for a period not exceeding six months, for default as specified therein; and also provides for appointment of one or more administrator or a committee of one or more members for managing the affairs of the society.

Clause 13.- Section 84 proposed to be substituted by this clause provides that the audit of accounts of the Societies shall be audited atleast once in each financial year within a period of six months from the closure of the financial year by an Auditor or auditing firm from approved panel by the Government or an authority authorized by the State Government having prescribed qualifications and experience; it also provides for re-audit of the societies, audit fee to be paid to the auditor and periodical inspection of the societies by the officers subordinate to the Registrar or by the federal society or financial bank

Clause 14.- Sub-section (1A) proposed to be inserted in section 107 by this clause provides for the winding up the society in the manner specifies therein after discharging the liabilities towards the debt and assets of the society.

Clauses 15 and 16.- Section 147 proposed to be amended by this clause provides for the certain other offences in contravention of the provisions this Act; and section 148 provides for penalties for certain other offences made punishable under provisions of section 147 as amended by this Bill.

Clause 17.- New section 168A proposed to be inserted by this clause provides for transitory provisions for-

- (i) the term of existing societies;
- (ii) orders passed by the administrator or Registrar;

- (iii) transfer of pending proceedings before the Registrar or authorized person or any other officer, authority as may be notified by the State Government.

BABUBHAI BOKHIRIA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the delegation of legislative powers in the following respect :-

Clause 9.- (i) Sub-section (1) of new section 74CC proposed to be inserted by this clause empowers the State Government to notify, by notification in the *Official Gazette*, the authority which shall conduct the election of the Committee and of the office bearers of the societies other than the specified societies;

(ii) sub-section (2) of new section 74CC proposed to be inserted by this clause empowers the State Government to prescribe by rules, the manner in which the authority shall conduct the election of the Committee and of the office bearers of the societies other than the specified societies.

Clause 12.- Sub-section (5) of section 81 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the conditions of service of the Administrator.

Clause 13.- (i) Sub-section (2) of section 84 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the qualifications and experience for an Auditor or auditing firm or an authority to be authorized to be eligible for auditing accounts of the societies.

(ii) sub-section (6) of section 84 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the amount as audit fee to be paid to the auditor for different categories or class of societies.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 21st March, 2013.

BABUBHAI BOKHIRIA.

By order and in the name of the Governor of Gujarat,

Gandhinagar
Dated the 22nd March, 2013

C.J.GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department

Government Central Press, Gandhinagar.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under
the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT CO-OPERATIVE SOCIETIES (SECOND AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 30 OF 2013.

A BILL

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Sixty-fourth Year of the Republic of
India as follows :-

1. This Act may be called the Gujarat Co-operative Societies Short title.
(Second Amendment) Act, 2013.

Guj. X of 1962. 2. In the Gujarat Co-operative Societies Act, 1961, in section 17, in sub-section (1), after clause (a), the following clause shall be inserted, namely:-
Amendment of section 17 of Guj. X of 1962.

51 of 1984. “(aa) to amalgamate with another society registered under the
Multi-State Co-operative Societies Act, 1984;”.

STATEMENT OF OBJECTS AND REASONS

In section 17 of the Gujarat Co-operative Societies Act, 1961, there is a provision for amalgamation of a society with another society which is registered under the said Act. However, there is no provision for amalgamation of a society with another society which is registered under the Multi-State Co-operative Societies Act, 1984 which is the Central Act. It is, therefore, considered necessary to insert such an enabling provision in the State Act and accordingly section 17 of the State Act is proposed to be amended to achieve the object.

This Bill seeks to amend the said Act to achieve the aforesaid object.

Gandhinagar,
Dated the 22nd March, 2013.

BABUBHAI BOKHIRIA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 22nd March, 2013.

C. J. GOTH,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT STAMP (AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 31 OF 2013.

A BILL

further to amend the Gujarat Stamp Act, 1958.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Stamp (Amendment) Act, 2013.

Short title and
commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In the Gujarat Stamp Act, 1958. in Schedule I,-

Amendment of
Schedule I to
Bom. LX of 1958.

(1) in article 6, -

(A) in clause (1), in sub-clause (a).-

(a) in item (i), the words "Subject to maximum of one lakh rupees," shall be deleted;

(b) in item (ii), for the words "Subject to maximum of three lakh rupees," the words "Subject to maximum of eight lakh rupees," shall be substituted;

(B) in clause (2),-

(a) in item (i), the words "Subject to maximum of one lakh rupees," shall be deleted;

(b) in item (ii) for the words "Subject to maximum of three lakh rupees," the words "Subject to maximum of eight lakh rupees," shall be substituted;

(2) in article 14,-

(a) in item (i), the words "Subject to maximum of one lakh rupees," shall be deleted;

(b) in item (ii), for the words "Subject to maximum of three lakh rupees," the words "Subject to maximum of eight lakh rupees," shall be substituted;

(3) in article 18, in column (1), the following Explanation shall be added. namely :-

"Explanation.- For the purpose of this article, the value of shares, scrip or stock includes the amount of premium, if any.";

(4) in article 20,-

(a) in clause (d), for the words "Subject to maximum ten crores rupees", the words "Subject to maximum twenty-five crores rupees" shall be substituted;

(b) in **Explanation I**, after the words "for the purpose of this Article", the words, brackets, letters and figures "and subject to sub-item (a) of item (ii) of clause (f) of article 45" shall be inserted;

(5) in article 27, in clause (b),-

(i) in item (ii), in sub-item (a), the words "Subject to maximum of one lakh rupees," shall be deleted;

(ii) in item (ii), in sub-item (b), for the words "Subject to maximum of three lakh rupees.", the words "subject to maximum of eight lakh rupees." shall be substituted;

(6) in article 45, the existing clause (f) shall be renumbered as item (i) of that clause and after item (i) as so renumbered, the following sub-item shall be added, namely :-

“(ii) when authorising to sell or transfer immovable property without consideration or without showing any consideration, as the case may be, -	
(a) if given to the father, mother, brother, sister, wife, husband, son, daughter, grandson, granddaughter;	One hundred rupees.
(b) in any other case.	The same duty as is leviable on a conveyance under article 20 for the amount of consideration or, as the case may be, market value of the immovable property whichever is greater.”;

(7) for article 49, the following article shall be substituted, namely:-

"49. RELEASE- that is to say, any instrument (not being such a release as is provided for by section 24) whereby a person renounce a claim upon another person or against any specified property-	
(a) if the release deed of an ancestral property or part thereof is executed by or in favour of brother or sister (children of renouncer's parents) or son or daughter or son of predeceased son or daughter of predeceased son or father or mother or spouse of the renouncer or the legal heirs of the above relations;	One hundred rupees.
(b) in any other case	The same duty as is leviable on a conveyance under article 20 for the amount of consideration or, as the case may be, market value of the share, interest, part or claim renounced in immovable property whichever is greater.”.

STATEMENT OF OBJECTS AND REASONS

Articles 6, 14, 20 and 27 of the Schedule I to the Gujarat Stamp Act, 1958 relate to Agreement or Memorandum of Agreement relating to deposit of Title Deed, Pawn, Pledge or Hypothecation, Bond, Conveyance and Further Charge respectively. The prevailing maximum amount of stamp duty payable under these articles is applicable since 2006. Since the maximum duty under the said articles is very low, it is, considered necessary to revise the maximum amount of stamp duty chargeable on the said instruments. Sub-clauses (1), (2), (4) and (5) of clause 2 of the Bill proposes to amend the said articles suitably.

The existing Article 18 of the Schedule I provides for the duty payable on the value of share, scrip or stock. However it is considered necessary to include the amount of premium, if any, charged on the share, scrip or stock and therefore, to clarify the position, the Explanation to article 18 is added. Sub-clause (3) of clause 2 of the Bill proposes to amend the said article.

It is proposed to amend article 45 to provide that the stamp duty shall be charged at the rate of hundred rupees, if the power of attorney is given without consideration to the father, mother, brother, sister, wife, husband, daughter, son, grandson, granddaughter and in other cases, the stamp duty shall be charged as is payable on conveyance. Sub-clause (6) of clause 2 of the Bill proposes to amend the said article.

Article 49 is proposed to be substituted to provide that the stamp duty shall be charged at the rate of hundred rupees in case where a claim is renounced in respect of ancestral property to brother or sister, or son or daughter, or son of predeceased son, or daughter of predeceased son, or father or mother or spouse of the renouncer, or the legal heirs of the above said relation and in other cases, the stamp duty shall be charged as is payable on conveyance or the market value of the claim, whichever is greater. Sub-clause (7) of clause 2 of the Bill proposes to substitute the said article.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in following respect :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 22nd March, 2013.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 22nd March, 2013.

C. J. GOTHI,
Secretary, to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The Following Bill published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT (RIGHT OF CITIZENS TO PUBLIC SERVICES) BILL, 2013.

GUJARAT BILL NO. 32 OF 2013.

A BILL

to lay down an obligation upon every public authority to render public services within the prescribed time limit and provide for a grievance redressal mechanism to citizens for non-compliance and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat (Right of Citizens to Public Services) Act, 2013.

Short title,
extent and
commencement.

(2) It shall extend to the whole of the State of Gujarat.

(3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint; and different dates may be appointed for different provisions of the Act.

Definitions. 2. In this Act, unless the context otherwise requires,--

- (a) "Authority" means a State Appellate Authority constituted under sub-section (1) of section 12;
- (b) "complaint" means a complaint filed by a citizen regarding any grievance relating to, or arising out of, any failure in rendering of services as notified in section 4 or in the functioning of a public authority, but does not include grievance relating to the service matters of a public servant whether serving or retired;
- (c) "days" means the working days, referred to as the timeline;
- (d) "Designated Authority" means such officer, as may be designated by the public authority, who shall be above the rank of the Grievance Redressal Officer referred to in sub-section (1) of section 6;
- (e) "Designated Officer" means an officer whose name is published under section 5 for rendering of services;
- (f) "Grievance Redressal Officer" means a Grievance Redressal Officer appointed under sub-section (1) of section 6;
- (g) "member" means a person appointed as a member of the State Appellate Authority under sub-section (2) of section 12;
- (h) "prescribed" means prescribed by rules made under section 29;
- (i) "public authority" means any authority or body or institution of Government established or constituted, -
 - (i) by or under the Constitution;
 - (ii) by any other law made by Parliament;
 - (iii) by any law made by the State Legislature;
 - (iv) by notification issued or order made by the State Government, and includes any,-
 - (a) body owned, controlled or substantially financed by funds provided by the State Government;
 - (b) non-Government organization substantially financed, directly or indirectly by funds provided by the State Government;
 - (c) an organization or body corporate in its capacity as an instrumentality of "State" as defined under article 12 of the Constitution and rendering services of public utility in the State of Gujarat;

- (d) a Government company as defined under section 617 of the Companies Act, 1956 which is a State Public Sector Undertaking;
- (e) any other company which supplies goods or renders services to the State Government in pursuance of an obligation imposed under any Central or State Act or under any licence or authorisation under any law for the time being in force.
- (v) by an agreement or memorandum of understanding between the State Government and any private entity as Public-Private Partnership or otherwise;
- (j) "Service" means all the goods and services, including functions, obligations, responsibility or duty, to be provided or rendered by a public authority;
- (k) "State" means the State of Gujarat.

CHAPTER II

RIGHT TO DELIVERY OF SERVICES

3. Subject to the provisions of this Act, every individual citizen shall have the right to time bound delivery of services and redressal of grievances. Right to services.

CHAPTER III

NOTIFICATION OF SERVICES BY STATE GOVERNMENT

4. The State Government may, from time to time, notify the services to which this Act shall apply and the stipulated time-limits within which the services shall be provided. Notification of services by State Government.
5. A public authority shall, within two months of the notification issued under section 4, publish the names and addresses of Designated Officers responsible for rendering of services notified under section 4. Obligation of Public Authority to publish names of individuals responsible for rendering services.

CHAPTER IV

APPOINTMENT AND OBLIGATIONS OF GRIEVANCE REDRESSAL OFFICERS

6. (1) Every public authority shall, within two months of a notification issued under section 4, designate as many officers as may be necessary as Grievance Redressal Officers in all administrative units or offices at the State, district and taluka levels, municipal corporations, municipalities, notified areas, panchayats and such other offices whereat services are rendered to receive, enquire into and redress any complaints from citizens in the manner as may be prescribed: Appointment and Obligations of Grievance Redressal Officers.

Provided that the Grievance Redressal Officer so appointed shall be at least one level above, and be deemed to have administrative control on the Designated Officer.

(2) Every public authority shall, immediately on appointment of a Grievance Redressal Officer, display at its office or customer care centre or help desk or *Jan Seva Kendra* and at the sales outlet, if any, website and at the office of the Grievance Redressal Officer, the name of the Grievance Redressal Officer, his address and telephone number, *E-mail* address, facsimile number and other means, if any, of contacting him, in respect of each area for which the Grievance Redressal Officer has been appointed.

(3) Every public authority shall appoint or designate such number of Grievance Redressal Officer under sub-section (1) for such areas, as may be considered by it necessary, for the Grievance Redressal Officer to be easily accessible and available for redressal of grievance of the public.

(4) The Grievance Redressal Officer shall provide all necessary assistance to citizens in filing complaints.

(5) Where a complainant is unable to make a complaint in writing, the Grievance Redressal Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

Acknowledgement of complaint by receipt thereof. 7. All complaints shall, within three working days of the making of the complaint, be acknowledged by a receipt, issued in writing or through electronic means or through text message or through any other means as may be prescribed, specifying the date, time, place, unique complaint number and particulars of receiver of complaint along with the stipulated time frame within which the complaint shall be redressed.

Action to be taken by Grievance Redressal Officer. 8. (1) Upon receipt of a complaint made under section 6, it shall be the duty of the concerned Grievance Redressal Officer to ensure that,

- (a) the grievance is remedied in the prescribed time frame;
- (b) the reason for the occurrence of the grievance is identified, the grievance is redressed satisfactorily within the prescribed time frame and the responsibility, if any, of the defaulting person is fixed;
- (c) where the grievance has occurred as a result of a deficiency, negligence or malfeasance on the part of an individual, then the action is taken in accordance with the applicable rules;
- (d) where the Grievance Redressal Officer is convinced that the individual responsible for the rendering of the services has wilfully neglected to render the service or there exists *prima facie* grounds for a case under the Prevention of Corruption Act, 1988, the Grievance Redressal Officer shall make an observation to that effect and in writing refer the same to the appropriate authority.

(2) The Grievance Redressal Officer shall ensure that the complainant is informed in writing the manner in which the grievance is redressed.

9. (1) The Grievance Redressal Officer shall, within the prescribed time frame, report every complaint which has not been redressed along with the details of the complainant, nature of complaint, and reasons for non-redressal of the complaint to the Designated Authority.

Forwarding of details of non-redressal of complaints to Designated Authority.

(2) Every public authority shall designate such officers as designated authorities as may be necessary in all the administrative units and offices as provided in clause (d) of section 2.

CHAPTER V APPEAL TO DESIGNATED AUTHORITY

10. (1) Every complaint forwarded along with the details under section 9 shall be deemed to have been filed by way of an appeal to the Designated Authority.

Appeal.

(2) Any individual aggrieved by a decision of the concerned Grievance Redressal Officer or who has not been informed in writing the manner in which his grievance has been redressed in respect of a complaint filed by him, may, within thirty days from the expiry of such period or from the receipt of such decision, prefer an appeal to the Designated Authority:

Provided that the Designated Authority may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time.

(3) The receipt of an appeal under sub-section (2) shall be acknowledged by the Designated Authority in writing or through electronic means or through text message or through any other means as may be prescribed, within three working days.

(4) Every appeal filed under sub-section (2) or deemed appeal under sub-section (1) shall be disposed of by the Designated Authority within the prescribed time frame.

(5) The Designated Authority shall arrange to deliver copies of the decision to the parties concerned within the prescribed time frame.

(6) The Designated Authority may, in deciding an appeal, impose penalty, as prescribed in sub-section (1) of section 23, against the concerned officer for acting in a *mala fide* manner or having failed to discharge his duties without any sufficient and reasonable cause:

Provided that the concerned officer of the public authority shall be given a reasonable opportunity of being heard before any penalty is imposed on him.

(7) Where it appears to the Designated Authority that the grievance complained of is *prima facie* indicative or representative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988 on the part of the individual officer of the public authority complained against, then it shall record in writing such evidence as may be found in support

49 of 1988.

of such conclusion and shall in writing refer the same to the appropriate authority.

(8) The Designated Authority shall upon adjudication of a complaint have the powers to issue directions requiring the concerned officers of the public authority to take such steps as may be necessary to render the services in compliance of the notification issued under section 4.

CHAPTER VI

APPEAL TO STATE APPELLATE AUTHORITY

Appeal to State Appellate Authority. 11. (1) Any person who does not receive a decision within the prescribed time frame or is aggrieved by a decision of the Designated Authority may, within thirty days from the expiry of such period or from the receipt of such a decision, prefer an appeal to the State Appellate Authority:

Provided that the Authority may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time.

(2) The decision of the State Appellate Authority under this section shall be binding.

Constitution of State Appellate Authority. 12. (1) The State Government shall, by notification in the *Official Gazette*, constitute one or more State Appellate Authority to exercise the powers conferred on or imposed upon and to perform functions assigned to the Authority under this Act.

(2) A State Appellate Authority shall consist of such number of members, not exceeding three, as may be prescribed.

Qualifications for appointment as member of State Appellate Authority. 13. A person shall not be qualified for appointment as a member of a Authority unless he is or has been an officer of the State Government and is holding or has held a post in the rank of, or equivalent to, Secretary or Principal Secretary or Additional Chief Secretary or Chief Secretary to the State Government.

Term of office of member of State Appellate Authority. 14. A person appointed as member of a Authority shall hold the office for a term of three years from the date on which he enters upon office or until he attains the age of sixty-five years whichever is earlier:

Provided that an officer of the State Government appointed as member of Authority shall hold the office not beyond the time he is an officer of the State Government.

Staff, Salary and allowances of State Appellate Authority. 15. (1) The State Government shall provide to the Authority with such officers and employees as may be necessary for efficient performance of its functions under this Act.

(2) The officers and employees so appointed under sub-section (1) shall discharge their functions under the general superintendence of the Authority.

(3) The salary and allowances payable to and the other terms and conditions of service of a member of the Authority shall be as may be prescribed:

Provided that if a member at the time of his appointment is in receipt of a pension, other than a disability or wound pension in respect of any previous service under the State Government, his salary in respect of the service as member of State Appellate Authority shall be reduced by the amount of that pension, including any portion of pension, which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent or retirement gratuity:

Provided further that where a member, if at the time of his appointment, is in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any State Act or a Government company owned or controlled by the State Government, his salary in respect of the service as a member shall be reduced by the amount of pension equivalent to the retirement benefit:

Provided also that neither the salary and allowances nor the other terms and conditions of service of a member of State Appellate Authority shall be varied to his disadvantage after the appointment.

16. (1) Any member of the State Appellate Authority, may, by notice in writing under his hand addressed to the Chief Secretary to the Government, resign his office. **Resignation and removal.**

(2) Notwithstanding any contained in sub-section (1), the State Government may by order remove from office a member if the member -

- (i) is adjudged an insolvent; or
- (ii) has been convicted of an offence which, in the opinion of the State Government involves moral turpitude; or
- (iii) engages during his term of office in any paid employment outside the duties of his office; or
- (iv) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body; or
- (v) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

(3) The State Government may, by rules, regulate the procedure for the investigation of misbehavior or incapacity of a member.

17. (1) The Authority shall, for the purposes of its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:- **Powers of State Appellate Authority and procedure before it.**

5 of 1908.

- (i) summoning and enforcing the attendance of any person and examining him on oath;

- (ii) discovery and production of any document or other material object producible as evidence;
- (iii) receiving evidence on affidavits;
- (iv) requisitioning of any public record;
- (v) issuing commission for the examination of witnesses;
- (vi) such other matter which may be prescribed.

(2) The Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made there under, the Authority shall have the power to regulate its own procedure. 5 of 1908.

Delivery of copies of decision. 18. The Authority shall arrange to deliver copies of the decision to the parties concerned within the prescribed time frame.

Staff and officers to be public servants. 19. The staff and officers of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Procedure of adjudication by State Appellate Authority. 20. (1) The Authority shall, upon adjudication of a complaint, have the power to issue directions requiring the public authority to take such steps as may be necessary to render the services in compliance of the notification issued under section 4.

(2) It shall be the duty of the Authority to receive and inquire into a complaint from any person.-

- (a) who has been unable to submit an appeal to the Designated Authority;
- (b) who has been refused redress of grievance under this Act;
- (c) whose complaint has not been disposed of within the time limit specified;
- (d) in respect of any other matter relating to registering and redressing of a complaint or appeal under this Act.

Burden of proof to be on Grievance Redressal Officer. 21. In any appeal proceedings, the burden of proof to establish the non-redressal of complaint, shall be on the Grievance Redressal Officer who denied the request.

Where Grievance complained of is a result of corrupt practices. 22. Where it appears to the Authority that the grievance complained of is, *prima facie*, indicative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988, on the part of the responsible officer of the public authority complained against, then it shall record such evidence as may be found in support of such conclusion and shall refer the same to the appropriate authority. 49 of 1988.

CHAPTER VII PENALTIES AND COMPENSATION

23. (1) The Designated Authority or the State Appellate Authority may impose a *lump sum* penalty against a designated officer responsible for rendering of service to which the applicant is entitled, or against a Grievance Redressal Officer, for acting in a *mala fide* manner, or for having failed to discharge his duties without any sufficient and reasonable cause, which shall not be less than one thousand rupees and may extend up to ten thousand rupees, which shall be recovered from the salary of the official against whom penalty has been imposed:

Penalty and
Compensation
for *mala fide*
action.

Provided that the concerned officer shall be given a reasonable opportunity of being heard before any penalty is imposed on him under this section.

(2) On imposition of the penalty under sub-section (1), the State Appellate Authority or the Designated Authority, as the case may be, may, by order, direct that such portion of the penalty imposed under sub-section (1) shall be awarded to the appellant, as compensation, as it may deem fit:

Provided that the amount of such compensation awarded shall not exceed the amount of penalty imposed under this section.

(3) If any public servant is found guilty under sub-section (1), the disciplinary authority shall initiate the disciplinary proceedings against such officer of the public authority, who, if proved to be guilty of a *mala fide* action in respect of any provision of this Act, shall be liable to such punishment as the disciplinary authority may decide.

CHAPTER VIII REPORTING OF REDRESSAL OF GRIEVANCES BY PUBLIC AUTHORITY

24. (1) Every public authority shall ensure that every Grievance Redressal Officer keeps a record of complaints made to it or appeal therein and the decisions on such complaints and appeals.

Reporting
requirements.

(2) Every public authority shall publish in the prescribed manner and in the prescribed time frame, a report mentioning therein-

- (a) the number of appeals and complaints received;
- (b) the number of appeals and complaints disposed of;
- (c) the number of appeals and complaints pending;
- (d) such other particulars, as may be prescribed, for discharge of its functions under this Act.

CHAPTER IX MISCELLANEOUS

25. No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Grievance Redressal Officer or the Designated Authority or the State Appellate Authority.

Bar of
Jurisdiction
of court.

Enforcement of
orders by State
Appellate
Authority.

26. Every order made by the State Appellate Authority may be enforced by it in the same manner as if it were a decree or order made by a court in a suit pending therein and it shall be lawful for the Authority to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction,--

- (a) in the case of public authority not falling under clauses (b) and (c), the place at which the main office of such public authority is situated; or
- (b) in the case of an order against a public authority being a company, the registered office of the company is situated; or
- (c) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain is situated, and

thereupon, the court to which the order is so sent, shall execute the order as if it were a decree or order sent to it for execution.

Protection
for acts done
in good faith.

27. No suit, prosecution or other legal proceedings shall lie against any person--

- (a) for anything which is in good faith done or intended to be done under this Act or any rule made thereunder;
- (b) or delay in rendering of service or not being able to render service where such delay or inability is on account of reasonable cause beyond the control of the person responsible for delivery of the service.

Provisions to
be in addition
to existing
laws.

28. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules
and laying of
rules.

29. (1) The State Government may, by notification in the *Official Gazette*, make rules, not inconsistent with this Act, for carrying out the purposes of this Act:

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-

- (i) the manner to receive, enquire into and redress any complaints under sub-section (1) of section 6;
- (ii) the manner of acknowledgement of complaints received and particulars of receiver of complaint and time frame for redresses under section 7;
- (iii) the time frame for redresses of grievances under sub-section (1) of section 8;
- (iv) the time frame within which the Grievance Redressal Officer shall report to the Designated Authority under section 9;
- (v) the other means of acknowledgement under sub-section (3) of section 10;

- (vi) the time frame for disposal of appeal under sub-section (4) of section 10;
- (vii) the time frame within which the Designated Authority shall deliver copies of the decision to the parties concerned under sub-section (5) of section 10;
- (viii) the time frame within which an appeal shall be made against the decision of the Designated Authority or has not received the decision within the time under sub-section (1) of section 11.
- (ix) the number of members of the State Appellate Authority under sub-section (2) of section 12.
- (x) the salary and allowances payable to and the other terms and conditions of service of a member of the State Appellate Authority under section 15;
- (xi) to regulate the procedure for the investigation of misbehavior or incapacity of a member of the State Appellate Authority under sub-section (3) of section 16;
- (xii) the matters for which the State Appellate Authority shall have power of civil court under clause (d) of sub-section (1) of section 17;
- (xiii) the manner and the time frame within which the public authority shall publish a report and other particulars for discharge of functions of the public authority under sub-section (2) of section 24;
- (xiv) any other matter which is or may be provided by rules under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty: Power to remove difficulties.

Provided that no order shall be made under this section after expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Citizen's Charters were introduced in Gujarat in 1998, which was voluntary in character. The main elements of the Citizens Charter were to be published containing the details of services and the time period for delivery of such services. The *Jan Seva Kendra* was launched in 2004 as an integrated approach to citizen-centric administration, which focuses on access to key services through the e-governance infrastructure using ICT. This enables the citizens to access Government services and obtain information in a unified and simplified manner and enables the Government to provide the required services seamlessly. It was felt that these efforts were noteworthy, but in the absence of a legally enforceable structure, their impact was diffused and limited. In this context, it was felt that Rights based approach be followed by endowing public with the right to get delivery of services within stipulated time lines. In view of this, it is considered necessary to have a comprehensive legislation on the subject.

The proposed Bill confers right on every individual citizen to time bound delivery of services and redressal of grievances. It is proposed in the Bill that the State Government shall notify the services and within what time limit the services shall be rendered. The Bill provides for the appointment of designated officers, Grievance Redressal Officers, Designated Authorities as well as the constitution of the State Appellate Authority. The Bill *inter alia* provides that if the relevant service is not provided within the prescribe time limit then the aggrieved person can file a complaint before the Grievance Redressal Officer and further if he is not satisfied with the decision of Grievance Redressal Officer can prefer an appeal before the Designated Authority and can also file further appeal to the State Appellate Authority. The proposed Bill empowers the Designated Authority and the State Appellate Authority to impose fine on the designated officer responsible for rendering service and also on the Grievance Redressal Officer acting in a *mala fide* manner. The Bill further provides that if it appears to the Designated Authority or the State Appellate Authority that the grievance complained is indicative of corrupt act on the part of the responsible officer or the public authority then it may refer the matter to the appropriate authority.

The Bill seeks to achieve the aforesaid objects.

The notes on clauses explain, in brief, the important provisions of the Bill.

Clause 1.- This clause provides for the short title, extent and commencement.

Clause 2.- This clause provides for terms used in the Bill;

Clause 3.- This clause provides that every individual citizen shall have the right to time bound delivery of services and redressal of grievances.

- Clause 4.-* This clause provides that the State Government may, time to time, notify the services to which this Act shall apply and the stipulated time-limits within which the services shall be provided.
- Clause 5.-* This clause provides that a public authority shall, within two months of a notification under section 4, publish the names and addresses of designated officers responsible for the rendering of services notified in section 4.
- Clause 6.-* This clause provides for appointment and obligations of Grievance Redressal Officers, in the offices of the State Government as well as the offices of the local authorities to receive, enquire into and redress any complaints from citizens in the prescribed manner.
- Clause 7.-* This clause provides for manner of acknowledgement of complaint along with the stipulated time-frame within which the complaint shall be redressed.
- Clause 8.-* This clause provides for the duties cast upon the Grievance Redressal Officer for the redressal of his grievances and the functions and the powers of the Grievance Redressal Officer in this behalf.
- Clause 9.-* This clause provides that the Grievance Redressal Officer shall report every complaint which has not been redressed to the designated authority.
- Clause 10.-* This clause provides for appeal as well as deemed appeal to the designated authority.
- Clause 11.-* The clause provides for appeal to the State Appellate Authority by a person who, does not receive a decision within the time specified in Chapter V, or is aggrieved by the decision of the Designated Authority.
- Clause 12.-* The clause provides for Constitution of one or more State Appellate Authorities
- Clause 13.-* This clause provides for qualifications for appointment of a member of the State Appellate Authority.
- Clause 14.-* This clause provides for the term and conditions of the service of the member of the State Appellate Authority.
- Clause 15.-* This clause provides for staff, salary and allowances of the State Appellate Authority. It provides that the State Government shall provide the State Appellate Authority with such officers and employees as may be required for the discharge of its functions under the proposed legislation.
- Clause 16.-* This clause provides for the manner of resignation and removal by the member of the State Appellate Authority. it also provides for the grounds on which the member of the authority can be removed.

- Clause 17.-** This clause provides for certain powers of civil court under the Code of Civil Procedure, 1908 to be exercised by the State Appellate Authority and procedure to be followed by it.
- Clause 18.-** The clause provides that the State Appellate Authority shall arrange to deliver copies of the decision to the parties concerned within the prescribed time frame from the date of such decision.
- Clause 19.-** The clause provides that the staff and officers of the State Appellate Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
- Clause 20.-** This clause provides for power of State Appellate Authority to issue directions requiring the public authority to take such steps as necessary to secure compliance with the provisions of the notification under section 4. It further provides the circumstances in which the authority shall receive and inquire into a complaint or appeal from any person.
- Clause 21.-** This clause provides that burden of proof to be on Grievance Redressal Officer. It provides that in any appeal proceedings the burden of proof to establish that a non-redressal of complaint shall be on the Grievance Redressal Officer who denied the request.
- Clause 22.-** This clause provides that the State Appellate Authority shall refer the matter to the appropriate authority where Grievance complained is indicative of Corrupt practices.
- Clause 23.-** This clause provides for penalty, including compensation to the complainant while deciding an appeal against designated officer and Grievance Redressal Officers.
- Clause 24.-** This clause provides for maintenance of records of complaints, appeals and decisions. It further provides for publishing a report about the number of appeals and complaints received, number of appeals and complaints disposed off and the number of appeals and complaints pending.
- Clause 25.-** This clause provides for bar of jurisdiction of civil court in the matters under this Act.
- Clause 26.-** This clause provides that the order made by the State Appellate Authority as if it were a decree or order made by the Court.
- Clause 27. -** This clause provides for usual indemnity for actions done in good faith.
- Clause 28. -** The clause provides that the provisions of the proposed legislation shall be in addition to and not in derogation of any other law for the time being in force.
- Clause 29. -** This clause provides for power to make rules.
- Clause 30. -** This clause provides for power to remove difficulties arising within two years from the commencement of the Act.

NITIN PATEL,

FINANCIAL MEMORANDUM

Clause 12 of the Bill provides for constitution of State Appellate Authority consisting of such number of members, not exceeding three.

Clause 15 of the Bill provides for the salary and allowances payable to the members of the State Appellate Authority. It also provides for appointment of other officers and employees as required for the discharge of the functions of the State Appellate Authority.

At this stage, it is not possible to give precise details or estimates of the expenditure to be incurred by the State Appellate Authority. It is however, expected that the Bill, if enacted and brought into operation, would involve a non-plan and plan expenditure of about one crore and fifty lakh rupees for 2013-14.

The expenses of the State Appellate Authority including the salaries, allowances and pensions payable to or in respect of the members and other officers or staff of the State Appellate Authority, shall be borne from the Consolidated Fund of State of Gujarat.

NITIN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (3) empowers the State Government by notification in the *Official Gazette*, to appoint the date on which the Act shall come into force; and it also empowers the State Government to appoint different dates for different areas and for different provisions for bringing the Act into force.

Clause 6.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner to receive, enquire into and redress any complaints from citizens where services are rendered by the local authorities.

Clause 7.- This clause empowers the State Government to prescribe by rules, the manner of acknowledgement of complaint received and particulars of receiver of complaint along with the stipulated time frame within which the complaint shall be redressed.

Clause 8.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the time frame within which grievance shall be remedied and redressed satisfactorily.

Clause 9.- This clause empowers the State Government to prescribe by rules, the time frame within which the Grievance Redressal Officer shall report to the Designated Authority, every complaint which has not been redressed.

Clause 10.- (i) Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the other means of acknowledgement of appeal made under sub-clause (2);

(ii) sub-clause (4) of this clause empowers the State Government to prescribe by rules, the time frame within which the appeal made under sub-clause (2) shall be disposed of;

(iii) sub-clause (5) of this clause empowers the State Government to prescribe by rules, the time frame within which the Designated Authority shall deliver copies of the decision to the parties concerned.

Clause 11.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the time frame within which an appeal shall be made against the decision of the Designated Authority or has not received the decision within the time.

Clause 12.- (i) This clause empowers the State Government to make, by notification in the *Official Gazette*, one or more State Appellate Authority to exercise the powers conferred on or imposed upon and to perform functions assigned to the Authority under this Act;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the number of members of the State Appellate Authority.

Clause 15.- Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the salary and allowances payable to and the other terms and conditions of service of a member of the State Appellate Authority.

Clause 16.- Sub-clause (3) of this clause empowers the State Government to prescribe by rules, to regulate the procedure for the investigation of misbehavior or incapacity of a member of the State Appellate Authority.

Clause 17.- Para (vi) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, the matters for which the State Appellate Authority shall have power of civil court.

Clause 18.- This clause empowers the State Government to prescribe by rules, the time frame within which the Authority shall arrange to deliver copies of the decision to the parties concerned.

Clause 24.- Sub-clause (2) this clause empowers the State Government to prescribe by rules, the manner and the time frame within which the public authority shall publish a report; It also empowers the State Government to prescribe other particulars for discharge of functions of the public authority under this Act.

Clause 29.- This clause empowers the State Government to make, by notification in the *Official Gazette*, the rules generally for carrying out the purposes of this Act and particularly for the matters specified therein.

Clause 30.- Sub-clause (1) empowers the State Government by notification in the *Official Gazette*, to make such provisions not inconsistent with the provisions of the Act as appear to it to be necessary or expedient for the removal of the difficulty arising within two years from the commencement of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,

NITIN PATEL.

Dated the 22nd March, 2013.

By order and in the name of the Governor of Gujarat,

Gandhinagar

Dated the 22nd March, 2013

C.J.GOTHI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department



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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The Following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT APPROPRIATION BILL, 2013.

GUJARAT BILL NO. 33 OF 2013.

A. BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2014.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation Act, 2013.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum one lakh fourteen thousand four hundred fifty crores, forty-one lakhs, twenty-two thousands rupees towards defraying the several charges which will come in course of payment during the financial year 2013-2014, in respect of the services and purposes specified in column 2 of the Schedule.

Withdrawal of
₹ 11,44,50,41,22,000
from and out of the
Consolidated Fund of
State of Gujarat for the
financial year 2013-
2014.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appropriation.

SCHEDULE

(See sections 2 and 3)

Demand No. Voted/ Appropriation	Services and Purposes	Revenue / Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			₹	₹	₹
1	2		3		
1	Agriculture and Co-operation Department	Revenue	201176000		201176000
		Capital	11000000		11000000
2	Agriculture	Revenue	24325367000		24325367000
		Capital	144100000		144100000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	874125000		874125000
		Capital	1858500000		1858500000
4	Animal Husbandry and Dairy Development	Revenue	4223325000		4223325000
5	Co-operation	Revenue	2393584000		2393584000
		Capital	190702000		190702000
6	Fisheries	Revenue	1599304000		1599304000
		Capital	339900000		339900000
7	Other expenditure pertaining to Agriculture and Co-operation Department	Capital	4000000		4000000
8	Education Department	Revenue	92752000		92752000
9	Education	Revenue	148913776000	1931000000	150844776000
		Capital	8118307000		8118307000
10	Other expenditure pertaining to Education Department	Revenue	16986000		16986000
		Capital	415010000		415010000
11	Energy and Petro-Chemicals Department	Revenue	50858000		50858000

1	2	3			
12	Tax Collection Charges (Energy and Petro-chemicals Department)	Revenue	223549000		223549000
13	Power Projects	Revenue	35982500000		35982500000
		Capital	12418700000		12418700000
14	Other expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	5800000		5800000
		Capital	5501400000		5501400000
15	Finance Department	Revenue	197675000		197675000
16	Tax Collection Charges (Finance Department)	Revenue	2421052000		2421052000
17	Treasury and Accounts Administration	Revenue	1249936000		1249936000
18	Pension and other Retirement Benefits.	Revenue	58131240000	4000000	58135240000
19	Other expenditure pertaining to Finance Department	Revenue	40780790000		40780790000
		Capital	11300000	100000	11400000
20	Repayment of Debt pertaining to Finance Department and its servicing	Revenue		131406584000	131406584000
		Capital		62178262000	62178262000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	261524000		261524000
22	Civil Supplies	Revenue	2622422000		2622422000
23	Food	Revenue	1230428000		1230428000
		Capital	266043000		266043000
24	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	1100000		1100000

1	2	3			
25	Forest and Environment Department	Revenue	111835000		111835000
26	Forest	Revenue	3315615000	1550000	3317165000
		Capital	2975529000		2975529000
27	Environment	Revenue	200000000		200000000
28	Other expenditure pertaining to Forest and Environment Department	Capital	5500000		5500000
29	Governor	Revenue		55995000	55995000
30	Council of Ministers	Revenue	39142000		39142000
31	Election	Revenue	844493000		844493000
32	Public Service Commission	Revenue	68307000	96475000	164782000
33	General Administration Department	Revenue	1111629000		1111629000
34	Economic Advice and Statistics	Revenue	681585000		681585000
35	Other expenditure pertaining to General Administration Department	Revenue	185630000	12140000	197770000
		Capital	8279560000		8279560000
36	State Legislature	Revenue	232605000	2750000	235355000
37	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	3407000		3407000
38	Health and Family Welfare Department	Revenue	114364000		114364000
39	Medical and Public Health	Revenue	26278704000		26278704000
		Capital	13725795000		13725795000
40	Family Welfare	Revenue	4939516000		4939516000
		Capital	183433000		183433000

1	2	3			
41	Other expenditure pertaining to Health and Family Welfare Department	Capital	5500000		5500000
42	Home Department	Revenue	174003000		174003000
43	Police	Revenue	29121354000		29121354000
44	Jails	Revenue	895812000		895812000
45	State Excise	Revenue	134082000		134082000
46	Other expenditure pertaining to Home Department	Revenue	640146000	5000000	645146000
		Capital	5055121000		5055121000
47	Industries and Mines Department	Revenue	104975000		104975000
48	Stationery and Printing	Revenue	602654000		602654000
		Capital	48200000		48200000
49	Industries	Revenue	8919595000		8919595000
		Capital	9770450000		9770450000
50	Mines and Minerals	Revenue	1342330000		1342330000
		Capital	109500000		109500000
51	Tourism	Revenue	193248000		193248000
		Capital	4759400000		4759400000
52	Other expenditure pertaining to Industries and Mines Department	Revenue	528111000		528111000
		Capital	638700000		638700000
53	Information and Broadcasting Department	Revenue	21103000		21103000
54	Information and Publicity	Revenue	887271000		887271000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue	73588000		73588000
		Capital	2600000		2600000
56	Labour and Employment Department	Revenue	102631000		102631000
57	Labour and Employment	Revenue	4563541000		4563541000
		Capital	683563000		683563000
58	Other expenditure pertaining to Labour and Employment Department	Capital	3250000		3250000

1	2	3			
59	Legal Department	Revenue	107946000		107946000
60	Administration of Justice	Revenue	8149728000	796285000	8946013000
61	Other expenditure pertaining to Legal Department	Revenue	468975000		468975000
		Capital	17700000		17700000
62	Legislative and Parliamentary Affairs Department	Revenue	79330000		79330000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	750000		750000
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	199700000		199700000
65	Narmada Development Scheme	Capital	48441159000		48441159000
66	Irrigation and Soil Conservation	Revenue	9020795000	2500000	9023295000
		Capital	27635395000	20000000	27655395000
67	Water Supply	Revenue	974400000		974400000
		Capital	10080000000		10080000000
68	Other expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue		300000000	300000000
		Capital	11000000		11000000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	94991000		94991000
70	Community Development	Revenue	11243291000		11243291000
71	Rural Housing and Rural Development	Revenue	11669498000	1707500000	13376998000
72	Compensation and Assignments	Revenue	1252179000		1252179000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	5002320000		5002320000
		Capital	64817000		64817000
74	Transport	Revenue	7043666000		7043666000
		Capital	4570000000		4570000000

1	2	3			
75	Other expenditure pertaining to Ports and Transport Department	Revenue	674032000		674032000
		Capital	1818517000		1818517000
76	Revenue Department	Revenue	370582000		370582000
77	Tax Collection Charges (Revenue Department)	Revenue	3526306000		3526306000
78	District Administration	Revenue	4609699000		4609699000
79	Relief on account of Natural Calamities	Revenue	11689456000		11689456000
		Capital	1250000000		1250000000
80	Dangs District	Revenue	449417000		449417000
81	Compensation and Assignments	Revenue	461975000	900000	462875000
		Capital	1100000	200000	1300000
82	Other expenditure pertaining to Revenue Department	Revenue	36726000		36726000
		Capital	2610000		2610000
83	Roads and Buildings Department	Revenue	153239000		153239000
84	Non-Residential Buildings	Revenue	5910348000	5200000	5915548000
		Capital	16143212000		16143212000
85	Residential Buildings	Revenue	1640494000		1640494000
		Capital	1649768000		1649768000
86	Roads and Bridges	Revenue	26308518000	21000000	26329518000
		Capital	18370794000	19000000	18389794000
87	Gujarat Capital Construction Scheme	Revenue	160892000		160892000
		Capital	2192000000		2192000000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue	166742000	100000000	266742000
		Capital	63800000		63800000
89	Science and Technology Department	Revenue	315584000		315584000
90	Other expenditure pertaining to Science and Technology Department	Revenue	1391463000		1391463000
		Capital	360808000		360808000
91	Social Justice and Empowerment Department	Revenue	58421000		58421000

1	2	3			
92	Social Security and Welfare	Revenue	9429103000	15000000	9444103000
		Capital	135380000		135380000
93	Welfare of Scheduled Tribes	Revenue	2052464000		2052464000
		Capital	83100000		83100000
94	Other expenditure pertaining to Social Justice and Empowerment Department	Capital	2100000		2100000
95	Scheduled Castes Sub-Plan	Revenue	20837423000	1000	20837424000
		Capital	7669880000		7669880000
96	Tribal Area Sub-Plan	Revenue	49346518000	50000000	49396518000
		Capital	28273811000	10000000	28283811000
97	Sports, Youth and Cultural Activities Department	Revenue	59590000		59590000
98	Youth Services and Cultural Activities	Revenue	2529206000		2529206000
99	Other expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	1156000		1156000
100	Urban Development and Urban Housing Department	Revenue	52025000		52025000
101	Urban Housing	Revenue	8151280000	1077420000	9228700000
102	Urban Development	Revenue	50896820000		50896820000
		Capital	10160000000		10160000000
103	Compensation, Assignment and Tax Collection Charges	Revenue	1282000000	300000000	1582000000
104	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue	3780000		3780000
		Capital	1100000		1100000
105	Women and Child Development Department	Revenue	27940000		27940000
106	Other expenditure pertaining to Women and Child Development Department	Revenue	16586505000	6000000	16592505000
		Capital	2034100000		2034100000

1	2	3.			
107	Climate Change Department	Revenue	8228000		8228000
108	Other expenditure pertaining to Climate Change Department	Revenue	1096000000		1096000000
	Total:	Revenue	687815633000	137897300000	825712933000
		Capital	256563627000	62227562000	318791189000
	Grand Total:		944379260000	200124862000	1144504122000

STATEMENT OF OBJECTS AND REASONS

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State, of all moneys required to meet -

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of the State for the financial year ending on the 31st March, 2014.

The amounts are shown below : - ₹

(a)	Revenue Expenditure	8,25,71,29,33,000/-
(b)	Capital Expenditure	3,18,79,11,89,000/-
Total :		₹ 11,44,50,41,22,000/-

Dated the 25th March, 2013.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar
Dated the 22nd March, 2013

C.J.GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department